



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

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

DATE **19 February 2019**

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

The Food and Farming (Amendment) (EU Exit) Regulations 2019 (“2019 Regulations”)

The law which is being amended

Domestic Legislation

- The Genetically Modified Organisms (Amendment) (England) (EU Exit) Regulations 2019;
- The Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2019;
- The Genetically Modified Organisms (Amendment) (Northern Ireland) (EU Exit) Regulations 2019;
- The Genetically Modified Organisms (Deliberate Release) Regulations 2002;
- The Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019;
- The Common Agricultural Policy (Rules for Direct Payments) (Amendment) (EU Exit) Regulations 2019.

EU Legislation

- Commission Regulation (EC) No 2870/2000 laying down Community reference methods for the analysis of spirits drinks;
- Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks;
- Commission Regulation (EU) No 606/2009 laying down certain detailed rules for implementing Council Regulation (EC) No 479/2008 as regards the categories of grapevine products, oenological practices and the applicable restrictions;
- Commission Regulation (EC) No 936/2009 applying the agreements between the European Union and third countries on the mutual recognition of certain spirit drinks;

- Commission Implementing Regulation (EU) No 716/2013 laying down rules for the application of Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks;
- Commission Delegated Regulation (EU) 2019/33 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation; and
- Commission Implementing Regulation (EU) 2019/34 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, amendments to product specifications, the register of protected names, cancellation of protection and use of symbols, and of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards an appropriate system of checks.

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

This instrument transfers functions to the Secretary of State. Functions transferred to the Secretary of State constitute functions of a Minister of the Crown for the purposes of Schedule 7B to Government of Wales Act 2006. A future Assembly Bill seeking to remove or modify these functions could trigger a requirement to consult the UK Government.

The purpose of the amendments

The 2019 Regulations make operability changes under section 8(1) of, and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 to the instruments referred to above, in order to address deficiencies within a broad range of areas such as food and drink, Geographical Indicators (GIs), genetically modified organisms and direct payments to farmers, as a result of the UK's exit from the European Union. These changes will ensure that legislation in these subject areas continues to work post EU exit.

The Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments is available here: <https://beta.parliament.uk/work-packages/3oS0aVN9>

Consent

Consent has been given for the UK Government to make corrections in relation to, and on behalf of, Wales on matters relating to wine, spirits, genetically modified organisms and direct payments to farmers for reasons of efficiency, expediency and due to the technical nature of the amendments. The amendments have been considered fully; and there is no divergence in policy. These amendments are to ensure that the statute book remains functional following the UK's exit from the EU. This is in line with the principles for correcting agreed by the Cabinet Sub-Committee on European Transition in May.

In relation to GI schemes, we have a strong interest in ensuring that GIs are protected throughout the UK (and ideally, through the negotiations on the future partnership, the EU).

While the Welsh Government's position is that these matters are devolved, the UK Government considers them to be reserved, and therefore these matters are not subject to the terms of the Intergovernmental Agreement, from its perspective. The Welsh Government has sought joint decision making functions within this instrument in relation to GIs, but the UK Government has maintained its view that these matters are reserved. We accept that the UK Government has been acting in good faith under the Intergovernmental Agreement and it has not been possible to resolve these matters within the timeframe required to ensure a functioning statute book.

However, in an exchange of letters between the Minister for **Environment, Energy and Rural Affairs** and the Secretary of State, written assurances have been given that all Devolved Administrations will be involved in the operation of GI schemes. The Welsh Government will continue to work to ensure that a Memorandum of Understanding that will underpin the instrument provides for a meaningful role for Welsh Ministers in the administration of the schemes. Consent has therefore been given on the basis that this will be addressed in due course and it has been clarified that this consent is without prejudice to our position on legislative competence.