



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019**

DATE **19 February 2019**

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

The Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019

The law to be amended

European Directly Applicable Instruments

- 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
- Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers
- Regulation (EU) No 251/2014 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products
- 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
- Regulation (EC) No 1830/2003 of the European Parliament and of the Council concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC
- Commission Decision 2009/821/EC drawing up a list of approved border inspection posts, laying down certain rules on the inspections carried out by Commission veterinary experts and laying down the veterinary units in Traces
- Commission Implementing Decision 2011/630/EU on imports into the Union of semen of domestic animals of the bovine species
- Commission Implementing Decision 2012/137/EU on imports into the Union of semen of domestic animals of the porcine species

- Commission Implementing Regulation (EU) 2018/659 on the conditions for the entry into the Union of live equidae and of semen, ova and embryos of equidae
- Commission Regulation (EC) No 599/2004 concerning the adoption of a harmonised model certificate and inspection report linked to intra-Community trade in animals and products of animal origin

Amendment of secondary legislation

The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007 (this does not apply in relation to Wales).

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

The 2019 Regulations contain provision which enables the Welsh Ministers to exercise functions in relation to Wales without encumbrance. This instrument also contains provisions which transfer functions to the Secretary of State in relation to Wales.

Functions transferred to the Secretary of State to be exercised concurrently with the Welsh Ministers may constitute functions of a Minister of the Crown for the purposes of Schedule 7B to the Government of Wales Act 2006. This therefore may be a relevant consideration in the context of the Assembly's competence to legislate in the future in these areas.

Functions transferred so that they are exercisable by the Secretary of State alone or by the Secretary of State with the consent of the Welsh Ministers constitute functions of a Minister of the Crown for the purposes of Schedule 7B to the 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 2019 Regulations contain provision which will extend the Welsh Ministers' executive functions. It will transfer some of the European Commission's current powers to Welsh Ministers in relation to Wales, for example in Regulation (EC) No 599/2004.

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, genetically modified organisms and the import and trade in animals and animal products, 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/wzwpCEVU>

Why consent was given

Consent has been given for the UK Government to make corrections in relation to, and on behalf of, Wales on matters relating to food, drink, genetically modified organisms and the

import of, and trade in animal and animal products 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 Welsh 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 this matter is devolved, the UK Government considers it to be reserved, and therefore this matter is 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 this matter is 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 this matter 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 the new scheme. 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 scheme. 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.