



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Official Controls (Animals, Feed and Food, Plant Health etc) (Amendment) (EU Exit) Regulations 2020**

DATE **06 November 2020**

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) Regulations 2020

The 2020 Regulations amend the following legislation:

EU legislation

- Operability amendments to Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products.

- Operability amendments to Commission Implementing Regulation (EU) 2019/1013 on prior notification of consignments of certain categories of animals and goods entering the Union;

- Operability amendments to Commission Delegated Regulation (EU) 2019/1602 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council concerning the Common Health Entry Document accompanying consignments of animals and goods to their destination;

- Operability amendments to Commission Delegated Regulation (EU) 2019/1666 (supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards conditions for monitoring the transport and arrival of consignments of certain goods from the border control post of arrival to the establishment at the place of destination in the Union);

- Operability amendments to Commission Implementing Regulation (EU) 2019/1873 (on the procedures at border control posts for a coordinate performance by competent authorities of intensified official controls on products of animal origin, germinal products, animal by-products and composite products);
- Operability amendments to Commission Implementing Regulation (EU) 2019/2007 laying down rules for the application of Regulation (EU) 2017/625 of the European Parliament and of the Council;
- Operability amendments to Regulation 2019/2122 regarding certain categories of animals and goods exempted from official controls at border control posts, specific controls on passengers' luggage and on small consignments of goods sent to natural persons which are not intended to be placed on the market and amending Regulation (EU) No 142/2011;
- Operability amendments to Commission Implementing Regulation (EU) 2019/2129 establishing rules for the uniform application of frequency rates for identity checks and physical checks on certain consignments of animals and goods entering the Union; and
- Operability amendments to Commission Implementing Regulation (EU) 2019/2130 establishing detailed rules on the operations to be carried out during and after documentary checks, identity checks and physical checks on animals and goods subject to official controls at border control posts.
- Operability Commission Implementing Regulation (EU) 2020/466 on temporary measures to contain risks to human, animal and plant health and animal welfare during certain serious disruptions of Member States' control systems due to coronavirus disease (COVID-19)
- Decision 210/2019 of the EEA Joint Committee amending Annex 1 (Veterinary and phytosanitary matters) and Annex 2 (Technical regulations, standards, testing and certification) to the EEA Agreement

Domestic legislation

- The Market Measures (Marketing Standards) (Amendments) (EU Exit) Regulations 2019;
- The Animal Welfare (Amendment) (EU Exit) Regulations 2019;

- The Veterinary Medicines and Animals and Animal Products (Examination of Residues and Maximum Residue Limits) (Amendment etc) (EU Exit) Regulations 2019;
- The Animals (Legislative Functions) (EU Exit) Regulations 2019.

The 2020 Regulations revoke the following legislation:

- Commission Implementing Regulation (EU) 2018/329 designating a European Union Reference Centre for Animal Welfare;
- Commission Delegated Regulation (EU) 2018/631 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council by establishing European Union reference laboratories for pests of plants;
- Commission Implementing Regulation (EU) 2018/1587 revoking the designation of the Istituto Superiore di Sanita, Rome, Italy as a European Reference Laboratory for the residues listed in Annex 1, Group B(3)(c) to Council Directive 96/23/EC;
- Commission Implementing Regulation (EU) 2019/530 designating European Reference laboratories for pests of plants on insects and mites, nematodes, bacteria, fungi and oomycetes, viruses, viroids and phytoplasmas; and
- Commission Implementing Regulation (EU) 2019/1685 of 4 October 2019 designating a European Union Reference Centre for Animal Welfare for poultry and other small farmed animals.

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 Welsh Ministers as the Competent Authority for Wales, without encumbrance. They also transfer non-legislative and legislative functions to the Welsh Ministers, the Scottish Ministers and the Secretary of State concurrently, the Secretary of State being able to exercise certain functions in relation to, and make regulations for, Great Britain with the consent of both the Scottish and 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.

Functions transferred so that they are exercisable by the Secretary of State with the consent of the Welsh Ministers have the potential to engage the requirement to consult the UK Government under Schedule 7B to the Government of Wales Act 2006 should a future Senedd Bill seek to remove or modify those functions.

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. However, we are in negotiations with 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 Regulations make amendments to existing EU-retained regulations governing official controls on 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”) goods.

Official controls are performed at appropriately designated border ports and points of entry, 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 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 after the end of the Transition Period. For example, references in currently retained EU Official Controls Regulations to legislative functions of the European Commission, are amended to be exercisable instead by the UK Secretary of State or the appropriate authority of the UK Devolved Administrations. 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: insert link: <https://www.legislation.gov.uk/ukdsi/2020/9780348214413>

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.