

Explanatory Memorandum to the Eggs (Wales) Regulations 2022

This Explanatory Memorandum has been prepared by the Department for Economy, Skills and Natural Resources and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Eggs (Wales) Regulations 2022.

Lesley Griffiths MS

Minister for Rural Affairs and North Wales, and Trefnydd

1 February 2022

PART 1

1. Description

This instrument amends Regulation (EC) No 589/2008, laying down marketing standards for eggs, to allow the continuation of the existing enforcement regime for Class A eggs imported from EU third countries (of equivalent marketing standards).

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None. The amendment in this Instrument is technical in nature and does not introduce a policy change; it retains current egg checking standards and practice.

3. Legislative background

This instrument makes amendments to directly retained EU legislation regarding marketing standards for eggs.

Regulation (EC) No 589/2008 makes provisions for marketing standards for eggs. It is enforced in Wales by the Eggs and Chicks (Wales) Regulations 2010.

This Instrument makes use of powers contained in section 50(3) of, and paragraph 16 of Schedule 5 to, the Agriculture Act 2020.

This Instrument is subject to the draft affirmative procedure.

4. Purpose and intended effect of the legislation

This Instrument, which amends retained Regulation (EC) No 589/2008, enables marketing standards checks to continue to be undertaken on imported Class A eggs at the point of destination. Points of destination are locations such as egg packing centres and wholesale premises, where checks are undertaken by the Animal and Plant Health Agency (APHA) egg marketing inspectors, prior to release for retail sale or mass catering. This amendment is required as the retained Regulation requires marketing standards checks to be carried out at Border Control Posts (BCPs), before customs clearance from 1 July 2022. As existing practice means inspectors and compliant enforcement procedures already exist at the point of destination (the packing centres and wholesale premises where eggs are checked prior to release for retail sale) it is more efficient and practical to continue the checks at these locations.

What did any law do before the changes to be made by this instrument?

Under Article 24(3) of Regulation (EC) No 589/2008, checks carried out on imported Class A eggs are required to be made at the time of customs clearance and prior to their release for free circulation.

Why is it being changed?

This amendment enables checks on imported Class A eggs to continue at the point of destination (such as egg packing centres and wholesale premises), where existing resources are already established for carrying out marketing standards checks on Class A eggs. This is necessary as Article 24(3) of Regulation 589/2008 requires marketing standards checks on imported Class A eggs to be undertaken before customs clearance; since the end of the transition period on 31 December 2020, this requirement would apply to eggs from EU Member States as well as any imported from other third countries.

A grace period for checks on EU imports is currently in place. Great Britain does not currently import Class A eggs from outside the EU. However, if non-EU third countries are assessed as having equivalent standards of egg production to Great Britain, eggs imported from them will be required to undergo marketing standards checks. In the event the Secretary of State recognises a non-EU third country as producing eggs to an equivalent standard, the requirements of this statutory instrument will also apply. Retained regulations for egg marketing standards in Wales are a matter for Welsh Ministers.

What will it now do?

Continuing to undertake egg marketing checks at the point of destination such as egg packing centres and wholesale premises rather than at points of entry, will allow these checks to use existing and established resources prior to the eggs reaching the market.

The Secretary of State determines equivalence of egg marketing standards before eggs are imported into Great Britain from a third country. It is the role of Welsh Ministers to ensure enforcement of these standards.

Imported eggs not produced to equivalent standards must be marked as 'non-UK standard', identifying the country of origin and farming method, or the previously required 'non-EC standard' before 1 July 2022. No eggs are imported into GB from countries which do not have equivalent standards.

This Instrument does not make any change to the operation of Welsh food marketing standards, but will ensure the Welsh egg marketing regulations can continue to be checked at destination and enforced accordingly.

5. Consultation

In accordance with the duty under Article 9 of Regulation (EC) No 178/2002, open and transparent consultation on these proposals has been undertaken.

A joint Welsh Government, Defra and Scottish Government, targeted four week consultation exercise was carried out by way of online survey on Citizen Space, from 19 July to 16 August 2021. DAERA did not participate in the consultation as they will not be amending their legislation due to the effects of the Northern Ireland Protocol.

The consultation targeted stakeholders from the egg sector, with close engagement with egg enforcement bodies. Six responses were received in total.

One respondent agreed to the proposal, however, the other respondents disagreed, preferring checks to take place at the border due to concerns that measures should mirror the requirements for import of Class A eggs into the EU.

To mitigate these concerns, a stakeholder round table was held on 24 September with industry representatives to confirm stakeholder understanding of the purpose of the amendment; to ensure an operable enforcement regime is in place to uphold egg marketing standards in the UK in relation to third-country Class A egg imports.

6. Regulatory Impact Assessment (RIA)

The Regulations introduce a minor amendment which does not alter the policy (or its impact) in any significant way; eggs imported from the EU will continue to be checked at destination. As such, it was not considered necessary to carry out a regulatory impact assessment for this instrument. This is in line with the policy set out in the Welsh Ministers' Code of Practice for carrying out regulatory impact assessments for subordinate legislation. No impact on the business, public or voluntary sectors are foreseen if the regulations come into force.