

Explanatory Memorandum to the Meat Preparations (Amendment and Transitory Modification) (Wales) (EU Exit) (Amendment) (No. 2) Regulations 2021

This Explanatory Memorandum has been prepared by the Office of the Chief Veterinary Officer within the Department for Environment, Skills and Natural Resources of the Welsh Government 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 Meat Preparations (Amendment and Transitory Modification) (Wales) (EU Exit) (Amendment) (No. 2) Regulations 2021

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Minister for Rural Affairs and North Wales, and Trefnydd

3 September 2021

Part 1

1. Description

This Explanatory Memorandum relates to the Meat Preparations (Amendment and Transitory Modification) (Wales) (EU Exit) (Amendment) (No. 2) Regulations 2021 (“this Instrument”).

This Instrument makes an amendment to the Meat Preparations (Amendment and Transitory Modification) (Wales) (EU Exit) (Amendment) Regulations 2021 (S.I. 2021/1 (W. 1)) (“the 2021 Regulations”) to extend the temporary removal of the requirement for meat preparations imported from the European Economic Area (“EEA”) into Wales to be deep frozen to a temperature of -18°C until 31 December 2021. The temporary removal of this requirement is due to expire on 30 September 2021. This Instrument applies to Wales and will come into force on 29 September 2021.

This Instrument is required to ensure alignment with changes which will shortly be brought forward by the UK Government to the Meat Preparations (Amendment and Transitory Modification) (England) (EU Exit) Regulations 2020 (S.I. 2020/1666).

2. Matters of special interest to the Legislation, Justice and Constitution Committee

This Instrument is being made by the Welsh Ministers in exercise of the powers conferred by paragraph 11A (1) of Schedule 2 to the Trade in Animals and Related Products (Wales) Regulations 2011 (S.I. 2011/2379) (W. 252). Paragraph 11A of Schedule 2 was inserted by the Official Controls (Animals, Feed and Food, Plant Health Fees etc.) (Wales) (Amendment) (EU Exit) Regulations 2020. It allows the Welsh Ministers to regulate to impose special import conditions in respect of imports of products of animal origin intended for human consumption, having regard the animal health situation of the country or countries concerned.

This Instrument is necessary to align with the approach to EU-GB import controls planned by the UK Government from 29 September 2021.

Without this Instrument it would be illegal for traders to import chilled meat preparations from the EEA, the Faroe Islands, Greenland or Switzerland from 1 October 2021. This could adversely affect select businesses and the end consumer in Wales as the availability of certain products could be limited.

3. Legislative background

The European Union (Withdrawal) Act 2018 (“the Withdrawal Act”) retains Commission Decision 2000/572/EC relating to the imports of meat preparations

as direct retained EU legislation. This Instrument amends regulation 3 of the 2021 Regulations, which in turn modified Article 3.3 of Decision 2000/572/EC laying down animal and public health conditions and veterinary certification for imports of meat preparations, with the effect of removing the requirement for meat preparations imported into Wales from the EEA to be deep frozen at not more than – 18 °C.

Prohibitions and restrictions (“P&R”) are trade requirements based in EU law that prevent or restrict the export and import of certain goods from third countries, where the EU believes there is a potential for them to present a level of risk to animal, plant or public health. This Instrument will extend the temporary suspension of P&R on chilled meat preparations from EEA countries until 31 December 2021.

To ensure continuity after the transition period, the Welsh Ministers introduced the Meat Preparations (Amendment and Transitory Modification) (Wales) (EU Exit) (Amendment) Regulations 2021 (S.I. 2021/1 (W. 1)) (“the 2021 Regulations”) to permit the import of certain prohibited products of animal origin affected by P&R from the EEA into Wales from 1 January to 31 March 2021.

On 22 March 2021, a further SI was made - the Meat Preparations (Amendment and Transitory Modification) (Wales) (EU Exit) (Amendment) Regulations 2021 (S.I. 2021/376 (W. 117)) – to extend the suspension of the prohibition until 30 September 2021. It enabled existing import rules to apply to chilled meat preparations until 30 September 2021 in accordance with the UK Government’s announced ‘phased approach’ to import controls.

The temporary removal of P&R on chilled meat preparations is a proportionate measure to ensure trade continuity as these goods present a low biosecurity risk. These goods are currently imported and there are no immediate public health concerns over these products, as the UK and the EU traded these freely within the EU Single Market.

4. Purpose and intended effect of the legislation

Since the end of the transition period, businesses and competent authorities have had to meet extensive new EU and UK requirements when moving goods under the new trading relationship with the EU. Many such businesses and competent authorities face challenges and shortage of resources in preparing for such changes in a short period of time, whilst dealing with the response to the COVID-19 pandemic.

This Instrument will extend the temporary suspension of P&R on chilled meat preparations from EEA countries until 31 December 2021, by amending regulation 3(1) of the 2021 Regulations. The continued temporary removal of this requirement is intended to bring policy in line with the revised timetable for the phased introduction of import controls on goods arriving from these countries.

This will provide a consistent approach towards imports and prevent disruption to businesses. This approach presents a low biosecurity risk as the UK currently imports these goods from these countries.

5. What the instrument does

This Instrument amends the date given in regulation 3(1) of the 2021 Regulations from 30 September 2021 to 31 December 2021. This aligns with the approach being taken by DEFRA and Scottish Government, ensuring consistency.

6. Consultation

Given the urgent nature of these changes, no public consultation has been undertaken; however, there has been GB-wide extensive stakeholder engagement with the Agri-Food industry and with delivery partners with responsibilities over SPS border controls (such as local border authorities, the Animal and Plant Health Agency and the Foods Standards Agency), since January 2021.

7. Regulatory Impact Assessment (RIA)

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations. Officials considered this is an exceptional and urgent situation. The amendments need to come into force on 29 September 2021 to ensure alignment across the UK. Whilst there is discretion in Welsh Ministers' exercise of statutory powers, taking a divergent approach from the GB-wide imports regime set by UK Government would lead to confusion to traders and disruption to trade. In particular, goods imported into the UK could face different import requirements in different countries within the UK, whilst being able to move freely within the UK once imported.