



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds (Amendment) (EU Exit) Regulations 2020**

DATE **11 November 2020**

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

SO30C – Notification in Relation to Statutory Instruments made by UK Ministers in devolved areas under the European Union (Withdrawal) Act 2018 not laid before the Senedd.

The Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds (Amendment) (EU Exit) Regulations 2020

The 2020 Regulations amend the following legislation:

The EEA agreement

Plant varieties and marketing of seed and other propagating material

Domestic legislation

- The Animal Health, Invasive Alien Species, Plant Breeders' Rights and Seeds (Amendment etc) (EU Exit) Regulations 2019 (S.I. 2019/1220);
- The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I. 2019/131);
- The Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/162);
- The Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/809);

EU legislation

- Council Decision 2005/834/EEC on the equivalence of checks on practices for the maintenance of varieties carried out in certain third countries;
- Commission Implementing Decision (EU) 2020/1106 on the organisation of a temporary experiment under Council Directives 66/401/EEC, 66/402/EEC, 2002/54/EC and 2002/57/EC as regards the official checking rate for field inspection under official supervision for basic seed, bred seed of generations prior to basic seed and certified seed.

Equine identification

- The Equine (Records, Identification and Movement) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/591);
- The Horses (Free Access to Competitions) Regulations 1992 (S.I. 1992/3044).

TSEs and Animal By-Products

Domestic legislation

- The Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment) (EU Exit) Regulations 2018 (S.I. 2019/170);
- The Animal Health, Invasive Alien Species, Plant Breeders' Rights and Seeds (Amendment etc) (EU Exit) Regulations 2019 (S.I. 2019/1220);
- The Animal Health and Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1229);

EU legislation

- Regulation (EC) No. 1069/2009 of the European Parliament and the Council lays down health rules as regards ABPs and derived products not intended for human consumption;
- Commission Regulation (EU) No. 142/2011 implements Regulation (EC) No. 1069/2009 of the European Parliament and the Council, which lays down health rules as regards ABPs and derived products not intended for human consumption.

Pet Travel

Domestic legislation

- The Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974 (S.I. 1974/2211);
- The Non Commercial Movement of Pet Animals Order 2011 (S.I. 2011/2883);

EU legislation

- Commission Delegated Regulation (EU) 2018/772 of 21 November 2017 supplementing Regulation (EU) No 576/2013 of the European Parliament and of the Council with regard to preventive health measures for the control of Echinococcus multilocularis infection in dogs, and repealing Delegated Regulation (EU) No 1152/2011;
- Commission Implementing Regulation (EU) 2018/878 of 18 June 2018 adopting the list of Member States, or parts of the territory of Member States, that comply with the rules for categorisation laid down in Article 2(2) and (3) of Delegated Regulation (EU) 2018/772 concerning the application of preventive health measures for the control of Echinococcus multilocularis infection in dogs;

Seal Products

- The Seal Products (Amendments) (EU Exit) Regulations 2018 (S.I. 2018/1034);

Aquatic Animal Health

Domestic legislation

- The Aquatic Animal Health and Alien Species in Aquaculture (Amendment etc) (EU Exit) Regulations 2019 (S.I. 2019/451);
- Aquatic Animal Health and Alien Species in Aquaculture (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I.2019/452);
- The Aquatic Animal Health (England and Wales) Regulations 2009 (S.I. 2009/463).

EU legislation

- Commission Regulation (EC) No 1251/2008 implementing Council Directive 2006/88/EC as regards conditions and certification requirements for the placing on

the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species;

- Commission Decision 2008/392/EC implementing Council Directive 2006/88/EC as regards an Internet-based information page to make information on aquaculture production businesses and authorised processing establishments available by electronic means;
- Commission Decision 2008/896/EC on guidelines for the purpose of the risk-based animal health surveillance schemes provided for in Council Directive 2006/88/EC;
- Commission Decision 2008/946 implementing Council Directive 2006/88/EC as regards requirements for quarantine of aquaculture animals;
- Commission Decision 2009/177/EC implementing Council Directive 2006/88/EC as regards surveillance and eradication programmes and disease-free status of Member States, zones and compartment;
- Commission Decision 2010/221/EU approving national measures for limiting the impact of certain diseases in aquaculture animals and wild aquatic animals in accordance with Article 43 of Council Directive 2006/88/EC;
- Commission Decision (EU) 2015/1554 laying down rules for the application of Directive 2006/88/EC as regards surveillance and diagnostic methods.

Animal Breeding

- The Animal Breeding (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/117).

Exotic animal diseases

- The Exotic Disease (Amendment etc) (EU Exit) Regulations 2018 (S.I. 2018/1410);

EU legislation

- Commission Implementing Decision 2014/709/EU concerning animal health control measures relating to swine fever.

Livestock Identification

Domestic legislation

- The Livestock (Records, Identification and Movement) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/814).

EU legislation

- Commission Regulation (EC) No 1760/2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products
- Commission Regulation (EC) No 1850/2006 laying down detailed rules for the certification of hops and hop products
- Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products

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

The 2020 Regulations contain restatement provisions relating to functions transferred and consented to in the previous EU Exit legislation outlined above.

The existing EU Exit SIs enable the Welsh Ministers to exercise functions in relation to Wales without encumbrance and for the Welsh Ministers to provide consent to the Secretary of State to exercise those functions in relation to Wales. Functions transferred so that they are exercisable by the Secretary of State subject to 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 European Union (Withdrawal) Act 2018 (“the Withdrawal Act”) preserves EU-derived domestic law and incorporates directly applicable EU law into domestic law at the end of the Transition Period (“retained EU law”). If retained EU law was not amended, it would not operate correctly. This instrument is made under the powers in, inter alia, Section 8 of the Withdrawal Act to correct these deficiencies in legislation relating to animal and aquatic

health and plant varieties and seeds and to make amendments that implement the Protocol on Ireland / Northern Ireland (“the Protocol”), and the latest amendments which have been made to EU Regulations since the earlier EU Exit SIs were made.

In relation to equine identification two EU Exit SIs and two pieces of domestic legislation in the EU and European Economic Area (“EEA”) Member States, to maintain high standards of equine biosecurity, effective enforcement, food safety, fraud prevention and equine welfare;

In relation to livestock health, two pieces of retained EU legislation and three EU Exit SIs for the prevention, control and eradication of Transmissible Spongiform Encephalopathies (“TSEs”) in cattle, sheep and goats, and for the use and disposal of Animal By-Products (“ABPs”) and their derived products. In addition, this instrument makes reference to the special transitional import arrangements and will make operability changes to five recent amendments to EU law on ABPs and TSEs that were settled in the EU too late to be covered by the earlier EU Exit SIs listed above;

In relation to identification and tractability of cattle, sheep and goats one EU Exit SI which amends two pieces of retained EU legislation setting out rules for the identification and traceability, including the records their keepers must maintain, how they must report their animal’s movements, and how central competent authorities must record this information on central databases;

In respect of aquatic health, seven pieces of retained EU legislation are amended which implement the overall framework set out in Council Directive 2006/88/EC, which establishes a biosecurity framework for fish and shellfish diseases by setting out requirements for bringing to the market aquaculture animals and their products; disease control measures; importation; and health certification;

The Aquatic Animal Health (England and Wales) Regulations 2009 (“the 2009 Regulations”) which implements in England and Wales the requirements of Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species. The 2009 Regulations provide a framework for the authorisation and registration of aquaculture businesses. They also list health, certification and transport requirements for aquaculture animals and products to allow trade and prevent disease; obligations regarding notification and control of disease outbreaks; requirements for a register of declarations of disease-freedom; and reportable diseases subject to national measures;

In relation to the marketing requirements of seed, other propagating material and planting material including forest reproductive material, the 2020 Regulations amend two pieces of EU legislation and four pieces of previously made EU Exit domestic legislation. The 2020 Regulations apply the normal rules for international trade in seed, other propagating

material, planting material and forest reproductive material to other countries if their certification processes have been recognised as equivalent;

In relation to veterinary controls two pieces of retained EU legislation and two pieces of existing legislation ensuring EU and third country movements of pet animals safeguard animal and public health and that they continue to meet the specific conditions laid down in the relevant EU legislation;

In respect of animal disease control, one piece of directly applicable EU legislation and one piece of previously made EU Exit domestic legislation concerned with responding to an outbreak of an exotic notifiable disease of animals to control and eradicate disease, demonstrate disease freedom, restore normal trade and work to assist the recovery of local communities.

In relation to animal breeding, one EU Exit SI ensuring that EU breed societies are subject to the same recognition and listing process as third country breeding bodies by the UK; this is the same as the EU is applying to UK breed societies post Transition Period and therefore ensures a reciprocal arrangement. These changes will take effect from 1st July 2021; and

Finally, one EU Exit SI banning the import of and trade in seal products, with limited exceptions for indigenous peoples and for the personal use of travellers to the UK, with requirements for documentation to accompany consignments of seal products that attest to compliance with the conditions of the exception.

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/2020/9780348214475/contents>

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.