

Explanatory Memorandum to The Welfare of Animals (Transport) (Miscellaneous Amendments) (Wales) Regulations 2023

This Explanatory Memorandum has been prepared by the Office of the Chief Veterinary Officer (OCVO) 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 Welfare of Animals (Transport) (Miscellaneous Amendments) (Wales) Regulations 2023.

Lesley Griffiths MS
Minister for Rural Affairs and North Wales, and Trefnydd

8 March 2023

PART 1

1. Description

The Welfare of Animals (Transport) (Miscellaneous Amendments) (Wales) Regulations 2023 (“the 2023 Regulations”) bring the official controls relating to animal welfare in transport under the same regime as other official controls for animal health and welfare. The 2023 Regulations also clarify the obligations of animal transporters and keepers, place greater responsibility on journey organisers in relation to the preparation and completion of journey logs and clarify the process for the approval of journey logs. The 2023 Regulations do this by amending Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations (EUR 2005/1) and by making provision for the purposes of Regulation (EU) 2017/625 of the European Parliament and 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 (EUR 2017/625).

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

None

3. Legislative background

The principal legislation governing the protection of animals during their transport within Great Britain, from Great Britain to third countries, and upon arrival from third countries is set out in the following retained EU law:

- Retained Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations (“Regulation 1/2005”)
- Retained Council Regulation (EU) 2017/625 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 (“the OCR”).

Many of the provisions in the OCR already apply to official controls and official activities performed by competent authorities in relation to the animal welfare in transport rules. However, Article 154 of the OCR originally delayed the introduction of the specific provisions in Article 21 of the OCR relating to official controls for welfare in transport which were intended to replace the provisions on official controls in Regulation 1/2005 to a long-stop date of 14 December 2022. Article 154(2) of the retained version of the OCR provides for these provisions to be commenced by regulations on a date that the Appropriate Authority chooses.

The 2023 Regulations commence the remaining provisions in Article 21 of the OCR on official controls in relation to the animal welfare in transport rules in Wales on 6 April 2023.

They also amend Annex II to Regulation 1/2005 which deals with the preparation and completion of journey logs which are required for certain journeys under Article 5(4) of that Regulation.

The Regulations also make consequential amendments to the Welfare of Animals (Transport) (Wales) Order 2007 (S.I. 2007/1047 (W. 105)).

The 2023 Regulations are made under powers conferred by Articles 30(1) and 30a(8) of Regulation (EC) No 1/2005 and Articles 144(6) and 154(2) of the OCR. The Regulations are being made under the negative resolution procedure.

4. Purpose and intended effect of the legislation

Commencement of provisions of Article 21 of the OCR: Commencement of the remaining provisions of Article 21 of the OCR will ensure a consistent regime of official controls for both animal health and welfare in place of the current dual regime, as the official controls to verify and monitor compliance with animal welfare in transport requirements will be within the same regime as other official controls for agri-food. Current compliance controls conducted by the Animal and Plant Health Agency (APHA) on behalf of the Welsh Ministers, and action that can be taken where non-compliance is identified, will be maintained.

Amendments to Annex II to Regulation 1/2005: The amendments clarify the obligations of animal transporters and keepers, place greater responsibility on journey organisers in relation to the preparation and completion of journey logs and clarify the process for the approval of journey logs. The organiser will have overall responsibility for the preparation and completion of the journey log. In particular it will be the responsibility of the organiser to submit journey logs to APHA for approval for export, import and transit journeys at least two working days before the proposed departure date. The deadline for submission of a journey log to the competent authority will be clarified. The organiser will be required to ensure that a copy of the correctly completed journey log is returned to APHA no later than one month of the journey being completed and, if the journey log is not produced by electronic means, a copy is retained for a minimum of three years. The respective responsibilities of keepers of animals at places of departure, transit and destination and persons transporting the animals in relation to the completion of journey logs will also be clarified.

Amendments to the Welfare of Animals (Transport) (Wales) Order 2007 (WATO): Consequential amendments are made to WATO for the administration and enforcement of the OCR concerning obligations on the checks to be carried out on journeys between GB and third countries etc relating to the welfare of animals in transport.

5. Consultation

The Welsh Ministers are under a statutory duty to consult before making these Regulations. Article 30a(9) of Regulation (EC) No 1/2005 and Article 144(7) of the OCR requires the Welsh Ministers to consult such bodies or persons as appear to

them to be representative of the interests likely to be substantially affected by these Regulations and such other bodies or persons as they consider appropriate.

A nine-week, targeted consultation was issued jointly by the UK, Scottish and Welsh Governments and views sought from those who would potentially be affected by, or have an interest in, the proposals. Those consulted included representatives from industry, animal welfare non-governmental organisations and enforcement bodies. The majority (71%) of respondents agreed with the proposals to commence the remaining provisions on official controls relating to animal welfare in transport as soon as possible. The majority (71%) of respondents also agreed or strongly agreed with the proposal to update Annex II to Regulation 1/2005 to provide clarity on the compliance checks conducted by APHA. The majority of respondents agreed (86%) or strongly agreed (14%) with the proposal to extend the role of the organiser to make them responsible for completion of the journey log throughout the process. A summary of the responses to the consultation was shared with respondents on 24 January. These were not published as it was a stakeholder targeted consultation.

6. Regulatory Impact Assessment (RIA)

As the 2023 Regulations make technical amendments and the amendments do not alter the policy (or its impact) in any significant way or how it is applied in a given situation, an RIA is not required. 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.