



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Import of and Trade in Animals and Animal Products
(Amendment etc.) (EU Exit) (No. 2) Regulations 2019**

DATE **15 August 2019**

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

The Import of and Trade in Animals and Animal Products (Amendment etc.) (EU Exit) (No. 2) Regulations 2019

The Law that is being amended

- The Import of and Trade in Animals and Animal Products (Amendment etc.) (EU Exit) Regulations 2019
- The Animal Health, Alien Species in Aquaculture and Invasive Non-native Species (Amendment) (EU Exit) Regulations 2019
- The Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019

European Directly Applicable instruments amended by the 2019 Regulations

- Commission Decision 94/360/EC
- Commission Decision 1997/794/EC
- Commission Decision 2000/571/EC
- Commission Decision 2000/572/EC
- Commission Decision 2001/812/EC
- Commission Decision 2003/779/EC
- Commission Regulation (EC) No 136/2004
- Commission Regulation (EC) No 282/2004
- Commission Regulation (EC) No 1739/2005/EC
- Commission Decision 2006/168/EC
- Commission Decision 2007/275/EC
- Commission Decision 2007/777/EC
- Commission Regulation (EC) No 798/2008
- Commission Regulation (EC) No 119/2009
- Commission Regulation (EC) No 206/2009
- Commission Decision 2009/712/EC
- Commission Regulation (EU) No 206/2010

- Commission Decision 2010/470/EC
- Commission Regulation (EU) No 605/2010
- Commission Decision 2011/163/EC
- Commission Implementing Decision 2011/215/EU
- Commission Implementing Decision 2011/630/EU
- Commission Regulation (EU) No 28/2012
- Commission Implementing Regulation (EU) 139/2013
- Commission Implementing Decision 2013/519/EU
- Regulation (EU) No 576/2013
- Commission Implementing Decision 2013/764/EU
- Commission Implementing Regulation (EU) 2018/659
- Modifications of Directive 97/78/EC

The purpose of the amendments

The purpose of the 2019 Regulations is to make technical operability changes by way of modifications and applications of glosses to cross referenced Directive provisions under Section 8 of the European Union (Withdrawal) Act 2018 (“the Withdrawal Act”) to existing EU legislation. In light of the next scheduled Exit Day of the 31st October 2019, there is now time to make modifications to cross referenced provisions that are referred to in EU retained legislation that are relevant to the import of animals and animal products.

In addition, the amendments in Part 2 of the Regulations make provision which enables the Welsh Ministers to exercise administrative functions in relation to Wales on a concurrent basis so that the Welsh Ministers may exercise their powers in relation to Wales. On those occasions where it is thought necessary, the Secretary of State may exercise the same function in relation to Wales but only with the Welsh Ministers’ consent. The functions relate to the checks of third country products as laid out in Commission Decision 94/360/EC and determining the location of border inspection posts under Commission Decision 2001/812/EC.

The 2019 Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments are available here: <https://beta.parliament.uk/work-packages/hOJj87eH>

Any impact the SI may have on the Welsh Ministers’ executive competence

The 2019 Regulations will extend the Welsh Ministers’ executive powers by conferring administrative functions on the Welsh Ministers in relation to Wales.

The functions conferred on the Welsh Ministers by Part 2 of the 2019 Regulations are to be exercised concurrently by the Secretary of State with the consent of the Welsh Ministers.

The functions relate to the following:

- adherence to frequency of checks of third country products as laid out in Commission Decision 94/360/EC
- determining location of border inspection posts under Commission Decision 2001/812/EC

Any impact the SI may have on the legislative competence of the National Assembly for Wales

Animal health is a matter which falls within the legislative competence of the National Assembly and is therefore devolved.

Functions transferred to the Secretary of State on a concurrent basis may constitute functions of a Minister of the Crown for the purposes Schedule 7B to the Government of Wales Act 2006 (GoWA 2006). This may operate as a constraint on the Assembly's competence to legislate in the future in these areas. In order to mitigate that risk, Welsh Government officials are working with the Office of the Secretary of State for Wales with a view to amending Schedule 7B to GoWA 2006 by an Order under section 109A of that Act.

Why consent was given

As set out above, the 2019 Regulations make a number of technical operability changes to existing EU legislation.

The import and export of live animals into and out of the EU is currently facilitated through border inspection posts (BIPs). As a result of the continuation of the EU's current practices in certification and monitoring through documentation and TRACES, this trade will continue to flow through BIPs. It is important that the current operation of the BIPs is maintained as this will ensure the continued free flow of trade. There are, at present, no BIPs in Wales. The functions include not only the operation of the BIPs, but also the approval of new BIPs which allows for a UK wide approach whilst allowing the Welsh Ministers to exercise these functions independently should a Welsh Port or Airport decide that a BIP is commercially viable and begin the process to create one. The BIPs currently operating in the UK are managed by a combination of local authorities, APHA and Official Veterinarians. These competent authorities have specific expertise to allow for the operation of the BIPs.