



Ein cyf/Our ref: MA/LG/2595/22

Paul Davies MS  
Chair  
Economy, Trade and Rural Affairs Committee

Paul.davies@senedd.wales

18 October 2022

Dear Paul,

**RE: The Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022**

I wish to inform the Committee that I have granted consent for the Secretary of State to exercise a delegated legislative power in a devolved area in relation to Wales. The former Minister of State for Farming, Fisheries and Food, Victoria Prentis MP, requested consent to make The Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022. These Regulations will apply in relation to Wales, England, and Scotland with the exception of regulations 24 and 25, which apply in England only. The statutory instrument will be made under section 8 of the European Union (Withdrawal) Act 2018 and be subject to the draft affirmative procedure.

The Regulations propose amendments to retained direct EU law relating to official controls and animal and plant health, to ensure that the laws operate effectively following the withdrawal of the United Kingdom from the European Union. Please see Annex A for details of amendments.

It is normally the policy of the Welsh Government to legislate for Wales in matters of devolved competence. However, in certain circumstances there are benefits in working collaboratively with the UK Government and other devolved administrations where there is a clear rationale for doing so.

On this occasion, I am giving my consent to these Regulations, which make corrections and address operability matters in relation to, and on behalf of, Wales for reasons of efficiency and expediency, and to ensure consistency and coherence of the statute book. I do so whilst reserving the ability to diverge in future as per our devolved competence.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

This instrument addresses minor EU exit related deficiencies, further deficiencies not anticipated at the time of withdrawal from the EU and ensures the functioning of a GB-wide imports regime. It would therefore seem appropriate to exercise these functions jointly as they need to work for the whole of the UK, or Great Britain (where there is freedom of movement), to ensure there are common standards and to minimise disruptions to traders, local authorities, and inspection agencies alike.

I am copying this letter to the Counsel General and Minister for the Constitution, Minister for Climate Change and the Legislation, Justice, and Constitution Committee.

Regards,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive, flowing style.

**Lesley Griffiths AS/MS**

Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd  
Minister for Rural Affairs and North Wales, and Trefnydd

## Annex A

### Part 2 of the statutory instrument:

- **Amendment of Regulation (EU) No 2016/2031 - Penalties.** These provisions relate to the creation of offences and set down rules on appropriate penalties relating to plant pests and diseases and reinstates Article 108 of the Plant Health Regulations.

### Part 3:

- **Amendment of Article 3 and Article 4 of the Official Controls Regulation (OCR)/ Regulation (EU) No 2017/625** to designate the 'Appropriate Authority' as a potential 'Competent Authority' more clearly.
- **Amendment to Article 48 of the OCR** amends OCR to enable the appropriate authority to adopt delegated acts to establish quantities under Article 48(g).
- **Amendment to Article 115 of the OCR** relates to contingency plans for food and feed by the 'Competent Authorities' or 'Appropriate Authority' and aims to remove reference to Article 55(1) of the General Food Law Regulations 178/2002 which was previously revoked.
- **Amendment to Article 128 of the OCR** relates to the powers of the 'Appropriate Authority' to make regulations to protect the biosecurity of GB if there is an outbreak in a third country.
- **Amendment to Article 139 of the OCR** aims to address a deficiency in the current OCR legislation by providing the 'Appropriate Authority' with the power to create penalties for non-compliance with the OCR and relevant supporting legislation.
- **Amendment to Article 150 of the OCR** extends the transitional periods provided for in that Article during which Directive 96/23/EC, which sets out the requirements for submission of up-to-date information regarding national residue monitoring programmes from trading partners approved to import products of animal origin into Great Britain, continues to apply.
- **Amendment to Annex 6 of the OCR** corrects an oversight in bringing high risk food and feed (HRFNAO) within the scope of the Transitional Staging Period as it was originally omitted in error.
- **Amendment to Annex 6 of the OCR** also allows for the Transitional Staging Period to be amended independently from changing the end date.

### Part 4:

- **Amendment of Regulation (EC) No. 999/2001 - The prevention, control and eradication of transmissible spongiform encephalopathies.** Regulation 16 of the proposed 2022 Regulations amends legislation relating to the prevention, control, and eradication of certain transmissible spongiform encephalopathies (TSEs) to ensure the legislation continues to operate effectively in Great Britain.
- **Amendment to Annex 2 to Commission Decision 2007/777/EC and Amendment of Annex 1 to Commission Regulation (EC) No 119/2009,** which are missed consequential amendments that are required now that the Import of Animals and Animal Products and Approved Countries (Amendment) Regulations 2022 has removed information in third country lists from legislation.
- **Amendment of Annex 1 to Commission Regulation (EC) No 798/2008** to remove Belarus from the list of approved trading partners for poultry meat.
- **Amendments to retained Regulation (EC) No. 1/2005 on the protection of animals during transport and related operations.** Regulation 17 makes corrections to Regulation 1/2005 to ensure obligations of Annex II are applicable. Annex II of Regulation 1/2005 sets out the obligations of transporters, organisers, and keepers in relation to journey logs for export, import and transit journeys of livestock and

unregistered horses from or via GB regardless of the purpose of the journey, where the journey is over 8 hours.

- **Amendment of Commission Implementing Regulation (EU) No 2020/625.** The purpose of this amendment is to ensure the transitional provision in Article 3 of Regulation 2020/625 (relating to the import of sesamum seeds) applies in relation to any imports which may enter GB which fall within the scope of that provision.

#### Part 5:

- **Amendment of the Plant Varieties and Seeds Act 1964: England and Wales** address a policy gap that has been identified within the 1964 Act in relation to a lack of regulation making powers in respect of fruit, vegetable, and ornamental planting material.

#### Part 6:

- **Amendment to Regulation 38 of The Trade in Animals and Related Products Regulation (TARP) England.** The TARP amendment deals with the ability to charge fees for border checks on animal related goods and will also require an amendment to TARP Wales - this deficiency will be corrected in a regulation made by the Welsh Ministers.
- **Amendment to regulation 2 of the Animal Health (Miscellaneous Fees) (England) Regulations 2018.** An amendment is being made to update the definition of third country.