

# **The Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) (Amendment) Regulations 2019**

## **Explanatory Memorandum**

This Explanatory Memorandum has been prepared by the Office of the Chief Veterinary Officer within the Department for Environment, Skills and Natural Resources and is laid before the National Assembly for Wales 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 Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) (Amendment) Regulations 2019.

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the Annex to this Memorandum.

Lesley Griffiths AM

**Minister for Environment, Energy and Rural Affairs**

25 October 2019

## **1. Description**

This instrument makes amendment to regulation 5(2) of the Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019.

The amendments in this instrument mean that an individual wishing to apply for a certificate of competence (which is needed in order to kill animals or carry out related operations in a slaughterhouse) may rely on approved training and examination undertaken in the Republic of Ireland as evidence when applying to the competent authority in Wales. This change is required to ensure the Welsh Ministers meet their commitments under the UK-Ireland Common Travel Area (“CTA”).

## **2. Matters of special interest to the Constitutional and Legislative Affairs Committee**

The SI is being laid under the “Made Affirmative” procedure due to the need for it to come into force immediately before exit day and the Ministerial statement in Part 2 of the Annex sets out the reasons for this decision.

## **3. Legislative background**

This instrument is made in exercise of the powers conferred upon the Welsh Ministers by paragraph 1(1) of Schedule 2, and paragraph 21 of Schedule 7, to the European Union (Withdrawal) Act 2018.

This instrument makes provisions supplementary to that made by regulation 5(2) of the Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 which amend the Welfare of Animals at the Time of Killing (Wales) Regulations 2014.

## **4. Purpose and intended effect of the legislation**

The Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019, which have been approved by the National Assembly for Wales, make operability changes to the Welfare of Animals at Time of Killing (Wales) Regulations 2014.

These changes remove the requirement for the competent authority in Wales to recognise certificates of competence for slaughterers granted by other EU Member States as if they had been granted by the competent authority in Wales. The effect of this is that slaughterers wishing to operate

in Wales must hold a certificate of competence issued by the competent authority in Wales.

The removal of recognition of certificates of competence issued by other EU Member States conflicts with commitments relating to the UK-Ireland Common Travel Area which provide for the right of Irish citizens to work in the UK and to have professional qualifications recognised.

This instrument amends the definition of “evidence of training and examination” contained in regulation 3(1) of the Welfare at Time of Killing of Animals (Wales) Regulations 2014 to recognise approved training and examinations undertaken in the Republic of Ireland. The effect of this is that an applicant applying for a certificate of competence from the competent authority in Wales may rely on this evidence in support of the application to remove the need for further training or examination.

## **5. Consultation**

Paragraph 4(a) of Schedule 2 to the European Union (Withdrawal) Act 2018 requires the Welsh Ministers to consult with the Secretary of State if the regulations will come into force before exit day. This provision has been complied with by way of a letter from the Welsh Ministers to the Secretary of State.

No public consultation exercise was undertaken as the instrument is considered necessary to maintain commitments under the CTA and it does not change the substantive policy.

## **6. Regulatory Impact Assessment (RIA)**

The Regulations maintain the current position and make no policy changes hence why no RIA has been undertaken.

## Annex: Statements under the European Union (Withdrawal) Act 2018

### Part 1: Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

Statement	Where the requirement sits	To whom it applies	What it requires
Appropriateness	Sub-paragraph (2) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising	A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.  A statement that the Minister has had due regard to the need to eliminate discrimination and

		powers in Schedule 2	other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority.  Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority	A statement to explain why it is appropriate to create such a sub-delegated power.

Urgency	Sub-paragraph (2) and (8) of paragraph 7, Schedule 7	Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7	A statement
---------	------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------	-------------

## **Part 2: Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act**

### **1. Appropriateness statement**

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) (Amendment) Regulations 2019 do no more than is appropriate. This is the case because the Regulations address a deficiency in Welsh legislation that will arise on exit of the EU.

The Regulations ensure the commitments relating to the CTA can be met by allowing the competent authority (the Food Standards Agency) to take into account a CoC issued by the ROI competent authority. This is in line with government policy.”

### **2. Good reasons**

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”.

This is because the provisions will prevent those with an Irish CoC working within the UK slaughter industry from being unduly disadvantaged by our withdrawal from the EU.”

### **3. Equalities**

#### **3.1 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement(s):**

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”

#### **3.2 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:**

“In relation to the instrument, I, Lesley Griffiths, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010”.

3.3 Little or no impact on equalities is expected.

#### **4. Explanations**

The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

#### **5. Criminal offences**

Not applicable/required

#### **6. Legislative sub-delegation**

Not applicable/required.

#### **7. Urgency**

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view by reason of urgency, it is necessary to make the Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) (Amendment) Regulations 2019, without a draft of this instrument containing the Regulations being laid before, and approved by a resolution of the National Assembly for Wales.

This is because the Welsh Ministers have concluded that the ‘made affirmative’ procedure provided for in the European Union (Withdrawal) Act 2018 is needed to ensure that this instrument is in place immediately before exit day.”

It is important to have this instrument in place immediately before exit day so as to provide confidence and certainty to the public and business and to ensure the effective functioning of the statute book after exit. If this instrument is not in force immediately before exit day, the UK will not be able to meet its commitments under the UK-Ireland Common Travel Area to recognise professional qualifications from the Republic of Ireland.



Using this procedure still allows for scrutiny and the National Assembly for Wales will need to approve its making for it to remain in force.