

Agenda – Constitutional and Legislative Affairs Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date: 11 November 2019

Meeting time: 14.30

For further information contact:

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Committee Clerk

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- 1 Introduction, apologies, substitutions and declarations of interest**
14.30

 - 2 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3**
14.30–14.35 (Page 1)
CLA(5)–31–19 – Paper 1 – Statutory instruments with clear reports
Negative Resolution Instruments
 - 2.1 SL(5)465 – The Rural Affairs and Environment (Miscellaneous Amendments) (Wales) Regulations 2019**

 - 3 Instruments that raise issues to be reported to the Assembly under Standing Order 21.2 or 21.3**
14.35–14.45
Negative Resolution Instruments
 - 3.1 SL(5)464 – The Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019**
(Pages 2 – 13)
CLA(5)–31–19 – Paper 2 – Report
CLA(5)–31–19 – Paper 3 – Regulations
CLA(5)–31–19 – Paper 4 – Explanatory Memorandum
CLA(5)–31–19 – Paper 5 – Letter from the Minister for Finance and Trefnydd to the Llywydd, 28 October 2019



Made Affirmative Resolution Instruments

**3.2 SL(5)460 – The Animal Health and Welfare (Miscellaneous Amendments)
(Wales) (EU Exit) (Amendment) Regulations 2019**

(Pages 14 – 31)

CLA(5)–31–19 – Paper 6 – Report

CLA(5)–31–19 – Paper 7 – Regulations

CLA(5)–31–19 – Paper 8 – Explanatory Memorandum

CLA(5)–31–19 – Paper 9 – Letter from the Minister for Environment, Energy
and Rural Affairs to the Llywydd, 23 October 2019

**3.3 SL(5)462 – The Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit)
(No. 3) Regulations 2019**

(Pages 32 – 55)

CLA(5)–31–19 – Paper 10 – Report

CLA(5)–31–19 – Paper 11 – Regulations

CLA(5)–31–19 – Paper 12 – Explanatory Memorandum

CLA(5)–31–19 – Paper 13 – Letter from the Minister for Environment, Energy
and Rural Affairs to the Llywydd, 23 October 2019

Date of the next meeting – 18 November 2019

Statutory Instruments with Clear Reports

11 November 2019

SL(5)465 – The Rural Affairs and Environment (Miscellaneous Amendments) (Wales) Regulations 2019

Procedure: Negative

These Regulations amend the following subordinate legislation relating to environmental protection and food:

- The Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009 (“the 2009 Regulations”)
- The Eggs and Chicks (Wales) Regulations 2010 (“the 2010 Regulations”)
- The Poultrymeat (Wales) Regulations 2011 (“the 2011 Regulations”)

Most notably, these Regulations:

- insert new provisions requiring enforcing authorities to notify the Welsh Ministers of relevant environmental damage, as soon as reasonably practicable after serving notification on a responsible operator under regulation 18 of the 2009 Regulations;
- amend the 2010 and 2011 Regulations to ensure they are up to date and accurate in relation to the current marketing standards relating to eggs, chicks and poultrymeat.

Parent Act: European Communities Act 1972

Date Made: 28 October 2019

Date Laid: 30 October 2019

Coming into force date:



Agenda Item 3.1

SL(5)464 – The Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019

Background and Purpose

These Regulations amend the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019 (“the 2019 Regulations”) to:

- correct an incorrect cross-reference,
- make minor amendments to the Welsh text, and
- effect equivalence between the English and Welsh texts.

These amendments are as a result of the Constitutional and Legislative Affairs Committee report, dated 16 October 2019, on the 2019 Regulations. The report identified a number of technical points.

The Welsh Government provided a response and agreed to make a number of corrections to the 2019 Regulations, to reflect the points identified. This is done by way of these Regulations.

Procedure

Negative.

Technical Scrutiny

No technical points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3(ii) in respect of this instrument.

Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly.

The 21 day rule under the Statutory Instruments Act 1946 (incorporated in Schedule 10 of the Government of Wales Act 2006) provides that instruments should be laid 21 days before they come into force. This enables Members to seek to annul such instruments before they have effect, as confusion can be caused if legislation is annulled after it has been implemented. However, in this case, the Welsh Government consider that the circumstances justify a breach of that rule. The Minister for Finance and Trefnydd, as required under section 11A of the Statutory Instruments Act 1946, has notified the Presiding Officer of the breach so that the matter can be brought to the attention of Members.

The Explanatory Memorandum (“the EM”) sets out the reasons for the breach of the 21 day rule:

“These Regulations are made under section 2(2) of the European Communities Act 1972, meaning there is some urgency in making them in advance of exit day, when the power will no longer be available. One of the amendments made by the 2019 Regulations relates to the Genetically Modified Organisms (Deliberate Release and Transboundary Movement) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019



(S.I. 2019/379 (W. 94)) (EU Exit Regulations 2019). The Genetically Modified Organisms (Deliberate Release and Transboundary Movement) (Miscellaneous Amendments) (Wales) (EU Exit) (No.2) Regulations 2019 (EU Exit No. 2 Amendment Regulations 2019) are currently being drafted. The EU Exit No. 2 Amendment Regulations 2019 will also amend the EU Exit Regulations 2019 and it is anticipated that they will be laid on 28 October, with a coming of force date of (for some provisions) immediately before exit day, and (for other provisions) exit day. Given that these Regulations and the EU Exit No. 2 Amendment Regulations 2019 both amend the EU Exit Regulations 2019, for clarity – on both the statute book and for the ease of understanding for lay readers – it is considered appropriate that the amendments made by these Regulations come into force first. The 2019 Regulations come into force on 30 October, and these Regulations need to come into force before that date. The latest day on which they can come into force is 29 October. In order to achieve this it is necessary for the 21 day rule to be breached.”

These Regulations and the EM were laid on 29 October 2019, and the letter to the Llywydd is dated 28 October 2019.

On 30 October 2019 the European Union (Withdrawal) Act 2018 (Exit Day) (Amendment) (No. 3) Regulations came into force and amended the definition of “exit day”. Exit day is now defined as 31 January 2020. Because of this amendment, the provision in the EU Exit Regulations 2019 which the 2019 Regulations amend, is not yet in force.

The EU Exit No. 2 Amendment Regulations 2019 were laid on 5 November 2019.

It remains the case that the 2019 Regulations came into force on 30 October.

Implications arising from exiting the European Union

These Regulations amend the 2019 Regulations which implement EU obligations in relation to the deliberate release of genetically modified organisms, the 2019 Regulations will form part of retained EU law after exit day.

Government Response

A government response is not required.

Legal Advisers

Constitutional and Legislative Affairs Committee

6 November 2019



W E L S H S T A T U T O R Y
I N S T R U M E N T S

2019 No. 1407 (W. 248)

**ENVIRONMENTAL
PROTECTION, WALES**

**The Genetically Modified
Organisms (Deliberate Release)
(Amendment) (Wales)
(Amendment) Regulations 2019**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019 (S.I. 2019/1316 (W. 228)) (“the 2019 Regulations”).

Regulation 3 makes a minor amendment to the Welsh language text of regulation 6 of the 2019 Regulations to effect equivalence with the English language text.

Regulation 4 makes amendments to regulation 7 of the 2019 Regulations, to correct a cross-reference and effect equivalence between the English and Welsh language texts.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2019 No. 1407 (W. 248)

**ENVIRONMENTAL
PROTECTION, WALES**

**The Genetically Modified
Organisms (Deliberate Release)
(Amendment) (Wales)
(Amendment) Regulations 2019**

Made 28 October 2019

Laid before the National Assembly for Wales
29 October 2019

*Coming into force in accordance with
regulation 1(2)*

The Welsh Ministers are designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to the control and regulation of the deliberate release, placing on the market and transboundary movements of genetically modified organisms.

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- (1) S.I. 2003/2901. By virtue of paragraphs 28(1) and 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32), S.I. 2003/2901 has effect as if made under section 59(1) of that Act.
- (2) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51), and section 3 of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).

The Welsh Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and section 111(4) and (11) of the Environmental Protection Act 1990(1), having consulted the Food Standards Agency in accordance with section 126(5) of the Environmental Protection Act 1990.

Title and commencement

1.—(1) The title of these Regulations is the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019.

(2) These Regulations come into force on the day after the day on which they are made.

Amendment of the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019

2. The Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019(2) are amended in accordance with regulations 3 and 4.

Amendment of regulation 6

3. In the Welsh language text of regulation 6 (amendment of Schedule 1), in paragraph (13), after “chwynnog,” insert “ neu”.

Amendment of regulation 7

4. In regulation 7 (insertion of Schedule 1A)—

- (a) in the Welsh language text of the inserted text of paragraph 3, for “(e) enw cyffredin” substitute “(dd) enw cyffredin”,
- (b) in the inserted text of paragraph 15(c), for “14(f)” substitute “14(1)(g)”, and
- (c) in the Welsh language text of the inserted text of paragraphs 22(a) and 24(1)(a), omit “amgylcheddol”.

(1) 1990 c. 43. Subsection (11) defines “prescribed”. Section 126 was substituted by paragraph 18 of Schedule 3 to the Food Standards Act 1999 (c. 28). The functions of the Secretary of State under these provisions were transferred to the National Assembly for Wales under article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Function) Order 1999 (S.I. 1999/672). By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 these functions were then further transferred to the Welsh Ministers.

(2) S.I. 2019/1316 (W. 228).

Lesley Griffiths
Minister for Environment, Energy and Rural Affairs,
one of the Welsh Ministers
28 October 2019

Explanatory Memorandum to the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019

This Explanatory Memorandum has been prepared by the Plant Health and Environment Protection Branch within the Economy, Skills and Natural Resources Department 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 Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019.

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs

29 October 2019

1. Description

1.1 These Regulations amend the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019 (S.I. 2019/1316) to correct an incorrect cross-reference, make minor amendments to the Welsh text, and effect equivalence between the English and Welsh texts. This instrument makes minor and technical changes to ensure the above legislation is operable in a UK-only context.

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

2.1 The Constitutional and Legislative Affairs Committee (CLAC) produced a draft report on the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019 (the 2019 Regulations) on 16 October 2019. Their report identified a number of technical points.

2.2 The Welsh Government provided a response to CLAC in respect of the draft report and agreed to make a number of corrections to the 2019 Regulations, to reflect the points identified by CLAC. This is done by way of the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019.

2.3 The 21 day rule will be breached in respect of the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019.

2.4 These Regulations are made under section 2(2) of the European Communities Act 1972, meaning there is some urgency in making them in advance of exit day, when the power will no longer be available. One of the amendments made by the 2019 Regulations relates to the Genetically Modified Organisms (Deliberate Release and Transboundary Movement) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/379 (W. 94)) (EU Exit Regulations 2019). The Genetically Modified Organisms (Deliberate Release and Transboundary Movement) (Miscellaneous Amendments) (Wales) (EU Exit) (No.2) Regulations 2019 (EU Exit No. 2 Amendment Regulations 2019) are currently being drafted. The EU Exit No. 2 Amendment Regulations 2019 will also amend the EU Exit Regulations 2019 and it is anticipated that they will be laid on 28 October, with a coming of force date of (for some provisions) immediately before exit day, and (for other provisions) exit day. Given that these Regulations and the EU Exit No. 2 Amendment Regulations 2019 both amend the EU Exit Regulations 2019, for clarity – on both the statute book and for the ease of understanding for lay readers – it is considered appropriate that the amendments made by these Regulations come into force first. The 2019 Regulations come into force on 30 October, and these Regulations need to come into force before that date. The latest day on which they can come into force is 29 October. In order to achieve this it is necessary for the 21 day rule to be breached.

3 Legislative Background

3.1 These Regulations are made in exercise of the powers conferred on Welsh Ministers by section 2(2) of the European Communities Act 1972 and section 111(4) and (11) of the Environmental Protection Act 1990 (the 1990 Act).

3.2 The National Assembly for Wales was designated under the European Communities (Designation) (No. 4) Order 2003 (SI 2003/2901) in relation to measures relating to the control and regulation of the deliberate release, placing on the market and transboundary movement of genetically modified organisms. By virtue of paragraphs 28(1) and 30 of Schedule 11 to the Government of Wales Act 2006 (the 2006 Act), these functions were transferred to the Welsh Ministers.

3.3 The functions of the Secretary of State under the provisions of the 1990 Act were transferred to the National Assembly for Wales under Article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 these functions were then further transferred to the Welsh Ministers.

3.4 These Regulations amend the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019 to correct technical points identified by the Constitutional and Legislative Affairs Committee (CLAC) in the draft report dated 16 October 2019.

4 Purpose and intended effect of the legislation

4.1 These Regulations correct technical points identified by the Constitutional and Legislative Affairs Committee in a draft report dated 16 October 2019. No change is being made to the policy.

4.2 These Regulations amend the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019 to correct an incorrect cross-reference, make minor amendments to the Welsh text, and to effect equivalence between the English and Welsh texts.

5 Consultation

5.1 The Food Standards Agency (FSA) Wales was consulted in accordance with section 126(5) of the Environmental Protection Act 1990, regarding the technical changes made by the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019. In their response to the consultation, the FSA Wales recognised these Regulations do not represent a change in policy and are content for the amendments to be made.

6 Regulatory Impact Assessment

6.1 There is no significant impact on the public sector. An Impact Assessment has not been prepared for these Regulations because there is expected to be no additional impact on business. There is no change in policy and there is no

impact on the statutory duties or on the statutory partners as set out in the Government of Wales Act 2006.

Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref MA/LG/5329/19
Ein cyf/Our ref

Elin Jones, AM
Llywydd
National Assembly for Wales
Cardiff Bay
CF99 1NA

28 October 2019

Dear Llywydd,

The Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019

In accordance with guidance, I am notifying you that section 11A(4) of the Statutory Instruments Act 1946, as inserted by paragraph 3 of Schedule 10 to the Government of Wales Act 2006, which affords the rule that statutory instruments come into force at least 21 days from the date of laying, will be breached for the introduction of the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019. The Explanatory Memorandum is attached for your information.

The Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019 make technical amendments to the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019. The changes reflect technical points identified in a draft report by the Constitutional and Legislative Affairs Committee.

On 8 October 2019, the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) Regulations 2019 (S.I. 2019/1316 (W.228)) (the 2019 Regulations) were laid before the National Assembly of Wales. The 2019 Regulations implement, in relation to Wales, Commission Directive (EU) 2018/350 amending Directive 2001/18/EC of the European Parliament and of the Council as regards the environmental risk assessment of genetically modified organisms. These Regulations achieve this by amending the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002 (S.I. 2002/3188) (W. 304) (the 2002 Regulations).

The Constitutional and Legislative Affairs Committee (CLAC) produced a draft report on the 2019 Regulations on 16 October 2019. Their report made a number of technical points. The Welsh Government response to the draft report agreed with a number of the points raised and agreed to take steps to make corrections of certain points that had been identified by the Committee. These Regulations do this.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
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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.

The Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019 (as did the 2019 Regulations) rely on the powers contained in section 2(2) of the European Communities Act 1972. There is, therefore, some urgency in making these Regulations in advance of exit day. One of the amendments made by the 2019 Regulations relates to the Genetically Modified Organisms (Deliberate Release and Transboundary Movement) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (EU Exit Regulations 2019). The Genetically Modified Organisms (Deliberate Release and Transboundary Movement) (Miscellaneous Amendments) (Wales) (EU Exit) (No.2) Regulations 2019 (EU Exit No. 2 Amendment Regulations 2019) are currently being drafted. These Regulations will also amend the EU Exit Regulations 2019 and it is anticipated that they will be laid on 28 October, with a coming of force date of (for some provisions) immediately before exit day, and (for other provisions) exit day.

Given that the 2019 Amendment Regulations and the EU Exit No. 2 Amendment Regulations 2019 both amend the EU Exit Regulations 2019, for clarity – on both the statute book and for the ease of understanding for lay readers – it is considered appropriate that the amendments made by the 2019 Amendment Regulations come into force first. The 2019 Regulations come into force on 30 October, and the Genetically Modified Organisms (Deliberate Release) (Amendment) (Wales) (Amendment) Regulations 2019 need to come into force before then. The latest day on which these Regulations should come into force is 29 October. In order to achieve this it is necessary for the 21 day rule to be breached.

An Explanatory Memorandum has been prepared and this has been laid, together with the Regulations, in Table Office.

A copy of this letter goes to Mick Antoniw AM, Chair of the Constitutional and Legislative Affairs Committee and Sian Wilkins, Head of Chamber and Committee Services.

Yours sincerely,



Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd

Agenda Item 3.2

SL(5)460 – The Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) (Amendment) Regulations 2019

Background and Purpose

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.

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.

Procedure

Made Affirmative.

Technical Scrutiny

No technical points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following merits point is identified for reporting under Standing Order 21.3(ii) in respect of this instrument.

These Regulations were made on 23 October 2019 and are subject to the urgent 'made affirmative' procedure. The Welsh Ministers considered it important to urgently have these Regulations in place 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 EU Exit. The urgent procedure was used in this case on the basis that exit day was expected to be on 31 October 2019.

Implications arising from exiting the European Union

The following implications are identified for reporting under Standing Order 21.3 in respect of this instrument.

Approved training and examination undertaken in the Republic of Ireland will continue to be recognised by the competent authority in Wales following exit from the European Union.

Government Response

A government response is not required.



Legal Advisers
Constitutional and Legislative Affairs Committee
5 November 2019



Regulations made by the Welsh Ministers, laid before the National Assembly for Wales under paragraph 7(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of the National Assembly for Wales within 28 days beginning on the day on which the Regulations were made, subject to extension for periods of dissolution, or recess for more than four days.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2019 No. 1375 (W. 241)

**EXITING THE EUROPEAN
UNION, WALES**

ANIMAL HEALTH, WALES

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by paragraph 1(1) of Schedule 2, and paragraph 21 of Schedule 7, to the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

They make provision supplementary to that made by regulation 4(8)(b) of the Animal Welfare (Amendment) (EU Exit) Regulations 2019 in relation to certificates of competence needed in order to kill animals or carry out related operations in a slaughterhouse. Regulation 4(8)(b) of those Regulations amends Council Regulation (EC) No 1099/2009 on the protection of animals at the time of killing, to omit the requirement in Article 21(4) to recognize certificates of competence issued in any member State.

Regulation 2 of these Regulations amends the Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 to ensure that, consistently with the arrangements under the Common Travel Area with the Republic of Ireland, after exit day an individual wishing to apply for a certificate of competence may rely on approved training and examination undertaken in the Republic of Ireland.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

Regulations made by the Welsh Ministers, laid before the National Assembly for Wales under paragraph 7(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of the National Assembly for Wales within 28 days beginning on the day on which the Regulations were made, subject to extension for periods of dissolution, or recess for more than four days.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2019 No. 1375 (W. 241)

**EXITING THE EUROPEAN
UNION, WALES**

ANIMAL HEALTH, WALES

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

Made 23 October 2019

Laid before the National Assembly for Wales
25 October 2019

*Coming into force in accordance with
regulation 1(2)*

The Welsh Ministers, in exercise of the power conferred by paragraph 1(1) of Schedule 2, and paragraph 21 of Schedule 7, to the European Union (Withdrawal) Act 2018(1), make the following Regulations.

The Welsh Ministers are of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft of the instrument being laid before, and approved by resolution of, the National Assembly for Wales.

(1) 2018 c. 16.

In accordance with paragraph 4 of Schedule 2 to that Act, the Welsh Ministers have consulted with the Secretary of State.

Title and commencement

1.—(1) The title of these Regulations is the Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) (Amendment) Regulations 2019.

(2) These Regulations come into force immediately before exit day.

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

2. In regulation 5(2) of the Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019(1), after sub-paragraph (a) insert—

“(aa) in paragraph (1), in the definition of “evidence of training and examination”, after paragraph (a) insert—

“(aa) a document attesting the passing of an independent final examination issued by—

(i) a body designated by the Republic of Ireland as responsible for delivering certificates in accordance with Article 21(1) of the EU Regulation as it has effect in EU law as amended from time to time, or

(ii) a body to whom the function of the final examination or the issuing of certificates has been delegated in the Republic of Ireland in accordance with Article 21(2) of the EU Regulation as it has effect in EU law as amended from time to time,

(ab) a certificate issued in the Republic of Ireland in reliance on Article 29(2) of the EU Regulation as it has effect in EU law.”;”.

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs,
one of the Welsh Ministers
23 October 2019

(1) S.I. 2019/684 (W. 131).

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
Appropriate-ness	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
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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.



Eich cyf/Your ref
Ein cyf/Our ref - MA-L-LG-5081-19

Elin Jones AM
Llywydd
National Assembly for Wales
Cardiff Bay
CF99 1NA

23 October 2019

Dear Elin,

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

I have today made The Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) (Amendment) Regulations 2019 under paragraph 1 of Schedule 2 and paragraph 21 of Schedule 7 to the European Union Withdrawal Act 2019. The Regulations come into force immediately before exit day. I attach a copy of the statutory instrument and the accompanying Explanatory Memorandum, which I intend to lay once the statutory instrument has been registered.

In accordance with paragraph 7(3) and 7(4) of Schedule 7 of the European Union (Withdrawal) Act 2018, this instrument must be laid before and approved by the National Assembly for Wales by 26 November in order for it to remain in effect. In these circumstances I understand Standing Order 21.4A is relevant and the Business Committee may establish and publish a timetable for the responsible committee or committees to report. It may be helpful to know that I intend to hold the plenary debate for this item of subordinate legislation on 26/11/19.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Gohebiaeth.Lesley.Griffiths@llyw.cymru
Correspondence.Lesley.Griffiths@gov.wales

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.

I am copying this letter to the Minister for Finance and Trefnydd, Mick Antoniw AM, Chair of the Constitutional and Legislative Affairs Committee, and Sian Wilkins, Head of Chamber and Committee Services.

Regards,

A handwritten signature in cursive script that reads "Lesley". The signature is written in a light grey or blue ink.

Lesley Griffiths AC/AM

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs

Agenda Item 3.3

SL(5)462 – The Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No. 3) Regulations 2019

Background and Purpose

These Regulations correct deficiencies in Welsh legislation which arise as a result of the UK's exit from the European Union. They ensure the statute book in Wales remains up to date and operable once the UK leaves the European Union.

For example, these Regulations:

- amend the Marketing of Fresh Horticultural Produce (Wales) Regulations 2019, so that a person will not commit an offence relating to the marketing of mixes of different species of fruit and vegetables, in specified circumstances;
- amend the Eggs and Chicks (Wales) Regulations 2010 to remove references to EU law that will no longer exist after exiting the EU;
- amend the Food (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019, so that a person will not commit an offence relating to the labelling of meat derived from animals imported live into Wales, in specified circumstances.

Procedure

Made affirmative.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3 – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

These Regulations were made on 23 October 2019 and are subject to the urgent 'made affirmative' procedure. At the time of making these Regulations, the Welsh Ministers considered it necessary to use the urgent procedure because exit day was expected to be on 31 October 2019.

Implications arising from exiting the European Union

Under section 2 of the European Union (Withdrawal) Act 2018, these Regulations will form part of retained EU law on exit.

Government Response

A government response is not required.

Legal Advisers





Regulations made by the Welsh Ministers, laid before the National Assembly for Wales under paragraph 7(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of the National Assembly for Wales within 28 days beginning on the day on which the Regulations were made, subject to extension for periods of dissolution, or recess for more than four days.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2019 No. 1376 (W. 242)

**EXITING THE EUROPEAN
UNION, WALES**

FOOD, WALES

HORTICULTURE, WALES

**The Rural Affairs (Miscellaneous
Amendments) (Wales) (EU Exit)
(No. 3) Regulations 2019**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the power conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation relating to food and horticulture.

Regulation 2 inserts a transitional provision into the Marketing of Fresh Horticultural Produce (Wales) Regulations 2009. The effect of that transitional provision is that a person will not commit an offence in relation to a failure to comply with Article 7 of Commission Implementing Regulation (EU) 543/2011 in certain specified circumstances.

Regulation 3 amends the Eggs and Chicks (Wales) Regulations 2010 (“the 2010 Regulations”), which make provision for the enforcement and execution of marketing standards applicable to eggs for hatching, farmyard poultry chicks, and eggs in shell for human consumption.

Regulation 3(2) inserts a definition of “third country” into regulation 3(1) of the 2010 Regulations. Regulation 3(3) and (4) amends the Schedules to the 2010 Regulations to remove references to EU legislation which will no longer exist after exit day as a result of the withdrawal of the United Kingdom from the European Union. Regulation 3(5) removes a reference to “national” from Schedule 3 to the 2010 Regulations to align with changes being made to other retained EU law.

Regulation 4 amends the Poultrymeat (Wales) Regulations 2011 (“the 2011 Regulations”), which make provision for the enforcement and execution of marketing standards applicable to poultrymeat. The amendment inserts a definition of “third country” into regulation 2(1) of the 2011 Regulations.

Regulation 5 amends the Food (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019. The amendment in question, in turn, makes changes to the Beef and Veal Labelling (Wales) Regulations 2019 so that a person does not commit an offence relating to a failure to comply with Article 2(2)(b) of Commission Regulation (EC) 1825/2000 in certain specified circumstances.

Regulation 6 amends the Food Information (Wales) (Amendment) (EU Exit) Regulations 2019. The amendments in question in turn make changes to the Food Information (Wales) Regulations 2014. The first amendments remove references to stocks held “within the period before exit day” and “as at exit day”. Regulation 6(3) inserts “other products to which paragraph (3) applies may continue to be marketed until the end of the relevant period” which ensures non wine protected food name/geographical indicator products may continue to marketed for three years from the day after exit day.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

Regulations made by the Welsh Ministers, laid before the National Assembly for Wales under paragraph 7(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of the National Assembly for Wales within 28 days beginning on the day on which the Regulations were made, subject to extension for periods of dissolution, or recess for more than four days.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2019 No. 1376 (W. 242)

**EXITING THE EUROPEAN
UNION, WALES**

FOOD, WALES

HORTICULTURE, WALES

**The Rural Affairs (Miscellaneous
Amendments) (Wales) (EU Exit)
(No. 3) Regulations 2019**

Made 23 October 2019

Laid before the National Assembly for Wales
25 October 2019

*Coming into force in accordance with
regulation 1(2)*

The Welsh Ministers, in exercise of the power conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018(1), make the following Regulations.

The Welsh Ministers are of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft of the instrument being laid before, and approved by resolution of, the National Assembly for Wales.

(1) 2018 c. 16.

In accordance with paragraph 4(a) of Schedule 2 to the European Union (Withdrawal) Act 2018, the Welsh Ministers have consulted the Secretary of State with regard to the amendment of the Food (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019⁽¹⁾ and the amendment of the Food Information (Wales) (Amendment) (EU Exit) Regulations 2019⁽²⁾.

As required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽³⁾ there has been open and transparent public consultation during the preparation of these Regulations with regard to the amendment of the Marketing of Fresh Horticultural Produce (Wales) Regulations 2009⁽⁴⁾, the Eggs and Chicks (Wales) Regulations 2010⁽⁵⁾, the Poultrymeat (Wales) Regulations 2011⁽⁶⁾, the Food Information (Wales) (Amendment) (EU Exit) Regulations 2019 and the Food (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019.

Title and commencement

1.—(1) The title of these Regulations is the Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No. 3) Regulations 2019.

(2) Save for regulations 5 and 6 which come into force immediately before exit day, these Regulations come into force on exit day.

Amendment of the Marketing of Fresh Horticultural Produce (Wales) Regulations 2009

2. In the Marketing of Fresh Horticultural Produce (Wales) Regulations 2009, after regulation 22 insert—

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- (1) S.I. 2019/732 (W. 137).
(2) S.I. 2019/XXX (W. XXX).
(3) OJ No. L 31, 1.2.2002, p. 1.
(4) S.I. 2009/1551 (W. 151), amended by S.I. 2019/732 (W. 137). These amendments are due to come into force on exit day. There are other amending instruments but none is relevant.
(5) S.I. 2010/1671 (W. 158), amended by S.I. 2019/463 (W. 111) and S.I. 2019/732 (W. 137). These amendments are due to come into force on exit day. There are other amending instruments but none is relevant.
(6) S.I. 2011/1719 (W. 195), amended by S.I. 2013/3270 (W. 320). S.I. 2011/1719 (W. 195) is also amended by S.I. 2019/463 (W. 111) and S.I. 2019/732 (W. 137) with these amendments coming into force on exit day.

“Transitional provisions: withdrawal from the EU

23.—(1) Regulation 4 does not apply in relation to a failure to comply with Article 7 of Commission Implementing Regulation 543/2011 if the matter constituting the alleged contravention—

- (a) relates to a product that was placed on the market before the end of the period of 21 months beginning on the day on which exit day falls, and
- (b) would not have constituted a contravention of that Regulation as it applied immediately before exit day.

(2) An authorised officer must not exercise the powers under regulation 11(1) in relation to a failure to comply with Article 7 of Commission Implementing Regulation 543/2011 if the matter constituting the alleged contravention—

- (a) relates to a product that was placed on the market before the end of the period of 21 months beginning on the day on which exit day falls, and
- (b) would not have constituted a contravention of that Regulation as it applied immediately before exit day.”

Amendment of the Eggs and Chicks (Wales) Regulations 2010

3.—(1) The Eggs and Chicks (Wales) Regulations 2010 are amended as follows.

(2) In regulation 3(1), at the appropriate place, insert the following definition—

““third country” (“*trydedd wlad*”) means any country or territory other than—

- (a) the United Kingdom;
- (b) the Bailiwick of Guernsey;
- (c) the Bailiwick of Jersey;
- (d) the Isle of Man.”

(3) In Schedule 1, in Part 2, in the table, omit row 6.

(4) In Schedule 2, in Part 2, in the table—

- (a) in row 2, in column 2, omit “Article 3 of Commission Regulation (EC) No 589/2008”, and
- (b) omit rows 18 to 20.

(5) In Schedule 3, in the table, in row 1, in column 3, omit “national”.

Amendment of the Poultrymeat (Wales) Regulations 2011

4. In the Poultrymeat (Wales) Regulations 2011, in regulation 2(1), at the appropriate place, insert the following definition—

““third country” (*“trydedd wlad”*) means any country or territory other than—

- (a) the United Kingdom;
- (b) the Bailiwick of Guernsey;
- (c) the Bailiwick of Jersey;
- (d) the Isle of Man.”

Amendment of the Food (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

5. In the Food (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019, in regulation 4(2), for sub-paragraph (b) substitute—

“(b) after paragraph (3) insert—

“(4) Paragraph (1)(b)(ii) does not apply in relation to a failure to comply with Article 2(2)(b) of Regulation (EC) No 1825/2000 of the European Parliament and the Council if the matter constituting the alleged contravention—

- (a) relates to a product that was placed on the market before the end of the period of 21 months beginning on the day on which exit day falls, and
- (b) would not have constituted a contravention of that Regulation as it applied immediately before exit day.””

Amendment of the Food Information (Wales) (Amendment) (EU Exit) Regulations 2019

6.—(1) Regulation 2 of the Food Information (Wales) (Amendment) (EU Exit) Regulations 2019 is amended as follows.

(2) For the words to be inserted into the Food Information (Wales) Regulations 2014⁽¹⁾ as regulation 15(2) substitute—

“(2) Products to which paragraph (1) applies may continue to be marketed until stocks are exhausted.”

(1) S.I. 2014/2303 (W. 227), to which there are amendments not relevant to these Regulations.

(3) For the words to be inserted into the Food Information (Wales) Regulations 2014 as regulation 15(4) substitute—

“(4) Wine products to which paragraph (3) applies may continue to be marketed until stocks are exhausted.

(4A) Other products to which paragraph (3) applies may continue to be marketed until the end of the relevant period.”

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs,
one of the Welsh Ministers

23 October 2019

The Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No 3) Regulations 2019

Explanatory Memorandum

This Explanatory Memorandum has been prepared by the Department for Economy, 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 Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No. 3) 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

The Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No. 3) Regulations 2019 (“this Instrument”) corrects deficiencies in Welsh statutory instruments which arise as a result of the UK’s exit from the European Union (EU). This Instrument will ensure the statute book in Wales remains up to date and operable once the UK withdraws from the EU.

Regulation 5 & 6 of this Instrument, which make amendments to the Food (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 and the Food (Information (Wales) (Amendment) (EU Exit) Regulations 2019 will come into force immediately before exit day.

All other provisions contained in this Instrument will come into force on ‘exit day’. ‘Exit day’ is defined in section 20(1) of the European Union (Withdrawal) Act 2018 (“the 2018 Act”) as 31 October 2019 at 11.00 pm.

This Instrument amends:

- the Marketing of Fresh Horticultural Produce (Wales) Regulations 2009,
- the Eggs and Chicks (Wales) Regulations 2010,
- the Poultrymeat (Wales) Regulations 2011,
- the Food (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019, which in turn amend the Beef and Veal Labelling (Wales) Regulations 2011. (from this point this Memorandum only refers to the latter of those Regulations),
- the Food (Information (Wales) (Amendment) (EU Exit) Regulations 2019 which in turn insert transitional provisions in the Food Information (Wales) Regulations 2014

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

This Instrument does not amend primary legislation. The amendments in this Instrument are corrective and technical in nature and do not introduce policy changes.

The changes made by this Instrument are necessary to ensure the effective and correct functioning of the statute book following the UK’s exit from the EU.

The SI is being laid under the “Made Affirmative” procedure and the Ministerial statement in Part 2 of the Annex sets out the reasons for this decision.

3. Legislative background

This Instrument is being made using the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the 2018 Act.

This Instrument is laid subject to the ‘urgent made affirmative’ procedure in accordance with paragraph 7 of Schedule 7 to the 2018 Act.

In accordance with the requirements of the 2018 Act the Minister for Environment, Energy and Rural Affairs, has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

4. Purpose and intended effect of the legislation

This instrument makes corrective and technical changes to existing Welsh domestic secondary legislation, to ensure the statute book in Wales is fully operable following the UK’s exit from the EU.

The amendments address deficiencies which arise as a result of the UK’s withdrawal from the EU, including transitional arrangements, inserting definitions and updating references in schedules to EU regulations.

This includes the correction of a transitional provision in the *Beef and Veal Labelling (Wales) Regulations 2011* and the *Food (Information (Wales) Regulations 2014*, and inclusion of a fresh transitional provision in the *Marketing of Fresh Horticultural Produce (Wales) Regulations 2009*.

These provisions provide businesses with a 21 month grace period to adapt to possible labelling changes arising from our withdrawal from the EU. The proposed changes includes in this Instrument ensure the transitional provisions will be relevant regardless of the actual date of our withdrawal from the EU.

4.1 What did the domestic regulations do before exit day?

A summary of the domestic Regulations subject to amendment is set out in the following paragraphs.

The Marketing of Fresh Horticultural Produce (Wales) Regulations 2009

The Marketing of Fresh Horticultural Produce (Wales) Regulations 2009 provide a statutory framework for the enforcement of European marketing rules in the fresh fruit and vegetable sector, provided for in Regulation (EC) 1234/2007 and Regulation (EC) 1580/2007. This aligns with the common organisation of agricultural markets. The Regulations designate the Welsh Ministers as the inspection body for Wales, and make a failure to comply with the marketing rules an offence.

The Eggs and Chicks (Wales) Regulations 2010

The Eggs and Chicks (Wales) Regulations 2010 make provision for the enforcement and execution of directly applicable EU marketing standards relating to eggs for hatching and farmyard poultry chicks, and eggs in shell for consumption (Commission Regulation (EC) No 617/2008, and Commission Regulation (EC) No 589/2008). They also make provision for the enforcement of directly applicable EU controls for Salmonella serotypes with public health significance in relation to the marketing and use of eggs in shell for human consumption.

The Poultrymeat (Wales) Regulations 2011

These Regulations make provision for the enforcement and execution of directly applicable EU marketing standards relating to poultrymeat. These Regulations make the failure to comply with certain provisions of Regulation (EC) 543/2008, relating to the marketing of poultrymeat and registration of slaughterhouses, an offence.

The Beef and Veal Labelling (Wales) Regulations 2011

These Regulations enforce Title II of Regulation (EC) 1760/2000 for the identification and registration of bovine animals and regarding the labelling of beef and beef products. They also enforce the provisions, relating to meat and the marketing of meat of bovine animals aged 12 months or less, contained in Regulation (EC) 1234/2007 and Regulation (EC) 566/2008. These Regulations also enforce certain provisions in Regulation (EC) 1825/2000 and provide rules for the provision of information for un-prepacked meat of bovine animals aged 12 months or less at the point of sale.

The Food Information (Wales) Regulation 2014

These Regulations enforce certain provisions of Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers. Regulation (EU) No 1169/2011 makes provision for food information to consumers, including fair information practices to ensure consumers are not misled by information on food packaging.

4.2 Why is it being changed?

After EU-Exit, without amendment, certain provisions will be inoperable and, as a result, existing law will either be unclear or will not function effectively. This Instrument therefore uses powers in the 2018 Act to make predominantly technical changes to the above legislation to ensure that it remains coherent and continues to function correctly after the UK has left the EU. This will provide clarity to producers, enforcement bodies and industry stakeholders.

There is also an imperative to ensure the legislative framework supports the industry to respond to any immediate impacts that may arise from our withdrawal from the EU. For example, changes in labelling requirements that make reference to the 'UK' in place of the 'EU' should be introduced in manner that allows producers a fair opportunity to adjust without unduly committing an offence.

No policy changes are being introduced by these amendments.

4.3 What amendments are being made?

The Marketing of Fresh Horticultural Produce (Wales) Regulations 2009 & the Beef and Veal Labelling (Wales) Regulations 2011

Correction of a transitional provision in the Beef and Veal Labelling (Wales) Regulations 2011 and inclusion of a fresh transitional provision in the Marketing of Fresh Horticultural Produce (Wales) Regulations 2009, to ensure businesses are provided with a 21 month grace period to adapt to possible labelling changes arising from our withdrawal from the EU. These proposed changes also ensure the transitional provisions will be relevant regardless of the actual date of the UK's withdrawal from the EU.

The Eggs and Chicks (Wales) Regulations 2010 & the Poultrymeat (Wales) Regulations 2011

The insertion of the definition of “third country” – this definition needs to align with the definition being inserted by Defra into the EU Regulations to ensure consistency of enforcement across the UK.

Technical amendments to the Schedules to the Eggs and Chicks (Wales) Regulations 2010 to remove or update references to EU Regulations which UK government are proposing to omit or amend.

The Food Information (Wales) Regulation 2014

Amendment of the transitional provisions inserted by the Food Information (Wales) (Amendment) (EU Exit) Regulations 2019. The removal of reference to stocks held “within the period before exit day” and “as at exit day” will reasonably allow businesses to incorporate labelling changes within their normal labelling cycles.

Inserting provision which clarifies, for the avoidance of doubt, that protected food name/geographical indicator products other than wine placed on the market in the period starting the day after exit day may continue to be marketed until the end of the “relevant period” which is three years from the day after exit day.

5. Consultation

Under Article 9 of Regulation (EC) 178/ 2002, there is a statutory duty to consult in relation to ‘food law’. The amendments included in this Instrument have been subject to two separate bilingual consultations, which were published on the Welsh Government consultation website. ‘Updating Welsh food law in preparation for Brexit’ was open from 11 January 2019 to 19 February 2019 and ‘Amendments to Welsh food legislation’ was open from 20 May 2019 to 28 June 2019.

Stakeholder experts and organisations were contacted directly, to ensure those groups and parties most interested in these changes were targeted and fully informed.

A stakeholder letter was also issued on 9 August 2019 in relation to corrections included in Regulations 2 and 5 which were required to reflect the amendment to the 2018 Act to change exit day from 29 March 2019 to 31 October 2019.

The vast majority of responses across these consultations supported the proposals to update and correct deficiencies in EU derived domestic legislation and to make transitional provisions.

There is a requirement under paragraph 4(a) of Schedule 2 to the 2018 Act to consult with the Secretary of State on any provisions that are due to come into force prior to exit day. In accordance with this requirement, the Secretary of State has been consulted through separate letters covering the amendments to the Beef and Veal Labelling (Wales) Regulations 2011 and the Food Information (Wales) Regulation 2014. These letters advise the proposals mirror the approach made by DEFRA to the regulations applying in England.

6. Regulatory Impact Assessment (RIA)

It was not considered necessary to carry out a regulatory impact assessment for this instrument as no impact on the business, public or voluntary sectors are foreseen. The Regulations only introduce minor technical corrections. This is in line with the Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments

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 powers in Schedule 2	<p>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.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under</p>

			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	Welsh Ministers exercising powers in	A statement

	paragraph 7, Schedule 7	Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7	
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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 Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No 3) Regulations 2019 do no more than is appropriate. This is the case because the Regulations largely correct technical deficiencies in the Welsh legislation that will arise on exit of the EU. The Regulations ensure that the Welsh statutory instruments included remain up to date and continue to operate effectively in Wales once we leave the EU. 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 ensure that protections provided by the Welsh regulations included continue to be operable after the UK leaves the European Union.”

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”.

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

- 7.1 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:
- 7.2 In my view by reason of urgency, it is necessary to make the Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No 3) Regulations 2019, without a draft of the instrument being laid before, and approved by a resolution of the National Assembly for Wales.
- 7.3 This is because if this instrument is not in force in readiness for exit day, the Wales domestic regulations being amended would contain inoperable provisions, preventing the effective operation of enforcement regimes for food marketing standards in Wales. The enforcement of marketing standards is critical for ensuring food marketed in Wales is safe, traceable and authentic, so that failure to deliver a correctly functioning legislative framework to provide for this is an unacceptable risk to consumers.
- 7.4 This relates particularly to the amendments included in this instrument for The Eggs and Chicks (Wales) Regulations 2010 & the Poultrymeat (Wales) Regulations 2011, where the inclusion of definitions for third country and the updating of schedules contained within these regulations are critical for the correct functioning of these regulations on day one of our exit from the EU.
- 7.5 This instrument introduces a new transitional provision to the Marketing of Fresh Horticultural Produce (Wales) Regulations 2009 and amends a transitional provision within the Beef and Veal Labelling (Wales) Regulations 2011. These provisions allow a reasonable and set period for food businesses to adapt to changes in certain food labelling requirements arising from necessary corrections to EU retained law. During this period, these provisions prevent persons from being guilty of an offence on condition the pre-Brexit labelling requirements are adhered to. If this instrument is not in place in readiness for exit day then there is a risk of disruption in the food supply chain and to regulatory bodies in

Wales in consideration of produce already marketed and for the updating of ongoing processes.

- 7.6 Transitional provisions are made to The Food Information (Wales) Regulations 2014 by virtue of the Food Information (Wales) (Amendment) (EU Exit) Regulations 2019 and come into force on exit day. This instrument makes minor amendments to those transitional provisions in order to provide clarity and certainty regarding their application. In order for there to be a clear body of text available on exit day and to minimise the risk of uncertainty, these amendments need to come into force immediately before exit day. If the amended provisions are not in place in readiness for exit day there is a risk of uncertainty for regulatory bodies and food businesses in Wales, together with a risk of inconsistent enforcement regarding the issue of improvement notices throughout the proposed transitional periods.



Eich cyf/Your ref
Ein cyf/Our ref: MA-LG-5147-19

Elin Jones, AM
Llywydd
National Assembly for Wales
Cardiff Bay
CF99 1NA

23

October 2019

Dear Elin

The Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No. 3) Regulations 2019

I have today made the Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No. 3) Regulations 2019 under paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018. Save for regulations 5 and 6 which come into force immediately before exit day, these Regulations come into force on exit day. I attach a copy of the statutory instrument and the accompanying Explanatory Memorandum, which I intend to lay once the statutory instrument has been registered.

In accordance with the procedure set out in paragraph 7 of Schedule 7 to the European Union (Withdrawal) Act 2018, this instrument must be approved by the National Assembly for Wales by 26 November 2019 in order for it to remain in effect. In these circumstances I understand Standing Order 21.4A is relevant and the Business Committee may establish and publish a timetable for the responsible committee or committees to report. It may be helpful to know that I intend to hold the plenary debate for this item of subordinate legislation on 26 November 2019.

Bae Caerdydd • Cardiff Bay
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CF99 1NA

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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.

I am copying this letter to the Minister for Finance and Trefnydd, Mick Antoniw AM, Chair of the Constitutional and Legislative Affairs Committee, and Sian Wilkins, Head of Chamber and Committee Services.

Regards
Lesley

Lesley Griffiths AC/AM

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs