

## **Explanatory Memorandum to The Meat Preparations (Amendment and Transitory Modification) (Wales) (EU Exit) Regulations 2021.**

This Explanatory Memorandum has been prepared by the Rural Development & Legislation Division within the Department for Environment, Skills and Natural Resources of the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Meat Preparations (Amendment and Transitory Modification) (Wales) (EU Exit) Regulations 2021.

Lesley Griffiths MS

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

5 January 2021

# Part 1

## 1. Description

The Meat Preparations (Amendment and Transitory Modification) (Wales) (EU Exit) Regulations 2021 (the “instrument”) will make amendments to retained EU law, which apply in relation to Wales and the Welsh zone, in relation to the trade in animals and related products.

This instrument will come into force on 6 January 2021.

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

The instrument is being made by the Welsh Ministers in exercise of the powers conferred by paragraph 11A(1) of Schedule 2 to the Trade in Animals and Related Products (Wales) Regulations 2011 (S.I. 2011/2379) (W. 252). Paragraph 11A of Schedule 2 is inserted by the Official Controls (Animals, Feed and Food, Plant Health Fees etc.) (Wales) (Amendment) (EU Exit) Regulations 2020. These Regulations, and therefore the amendment to the Trade in Animals and Related Products (Wales) Regulations 2011, came into force on implementation period completion day.

### Coming into force

In accordance with section 11A(4) of the Statutory Instruments Act 1946, the Llywydd has been informed that the Regulations will come into force less than 21 days after the instrument has been laid.

Without this legislation, it would be illegal for traders to import chilled meat preparations from the EU. Businesses have indicated they are not comfortable trading in a legally non-compliant way, meaning supermarkets would not place orders containing illegal items such as sausages, meatballs and other meat preparations. This would have financial consequences for businesses and adversely affect food supply by limiting product availability.

This SI will support businesses ability to prepare for life outside of the single market and immediately mitigate against food supply issues by allowing those food products affected by these prohibitions and restrictions (P&Rs) to be imported for a limited time.

The enabling power for this disapplication of the P&Rs on meat preparations only became available after implementation period completion day, since that enabling power only came into force with the Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) (No. 2) Regulations 2020. In combination, these reasons meant that an ‘air gap’ in this legislation implementing the policy intent was inevitable.

An 'air gap' would mean that until this SI came into force, imports of chilled meat preparations from the EU into Wales after implementation period completion day would be technically illegal. England and Scotland are making equivalent instruments to remove this import condition. Whilst a temporary 'air gap' is a manageable situation operationally, it should be as short as possible. Were we not to have alignment with each other importers would be faced with a confusing situation. To ensure continued enforceability with the rest of the UK and to minimise the length of the 'air gap' it has become necessary not to adhere to the 21 day convention.

We currently trade in products affected by P&Rs and do not have public or animal health concerns over these products. However, the UK and EU SPS regime will no longer be automatically aligned. Therefore, potential future divergence means it may not be appropriate to have long-term disapplication of P&Rs from the EU without appropriate policy development and governance through the Animal Health and Welfare Common UK Framework.

### **3. Legislative background**

Because the UK and the EU will mutually become 'third countries' once we end the transition period, importers and exporters in both directions will need to comply with additional health guarantees in Export Health Certificate (EHC) requirements and other P&Rs, set out in EU and retained UK legislation.

There are existing P&Rs required for Intra-community trade between Member States (such as live animals, for example), but the new 'third country status' will bring on a myriad of new P&Rs for the UK's trade with the EU. For imports from the EU and EFTA states, these P&Rs have been largely removed, but our exports to the EU will surely face them. These new requirements will require changes in the supply chain, which the industry will need to accommodate

The majority of P&Rs are written and defined in the EHCs that are attached as annexes to EU legislation. In preparation for our departure from the EU, to disapply these P&Rs on imports to the UK, these EHCs were removed from our retained EU legislation: however, some P&Rs remain written in the main body of our retained EU legislation.

From 1 January 2021, imports of meat preparations must comply with the specific animal and public health guarantees as laid out in domestic legislation and retained EU legislation. Commission Decision 2000/572/EC specifically states that meat preparations imported from third countries must "*have been frozen at an internal temperature of not more than – 18 °C at the production plant or plants of origin*"

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

This purpose of this instrument is to temporarily suspend the requirement for meat preparations imported into Wales from establishments situated in EEA member States, the Faroe Islands, Greenland or Switzerland to be deep frozen

This condition if imposed will cause considerable issues to importers of meat from the EU. The condition can be seen as overly restrictive when we consider that we currently have harmonisation with the EU on all regulations and standards, have similar biosecurity levels and animal health status, and the same controls for the production and preparation of meat products. If this instrument is not applied, importers would legally be unable to import fresh meat preparations from the EU and other states, which would have negative implications for the food supply chain

This provision is meant to be transitional as, in line with the UK Government's Border Operating Model, the UK will introduce a requirement for imports of animal products from the EU to be accompanied by Export Health Certificates and with the conditions therein. Decisions on those conditions, from April 2021, will be taken within the governance arrangements of the Animal Health and Welfare Common Framework.

#### **What the instrument does**

Part 2 of the instrument makes amendments to Commission Decision 2000/572/EC laying down the animal and public health and veterinary certification conditions for imports of meat preparations into the Community from third countries.

Part 3 of the instrument makes transitional modifications to Commission Decision 2000/572/EC.

#### **5. Consultation**

No public consultation was undertaken. The purpose of the 2021 Regulations is to enable the continued import of fresh meat preparations from the EU and other states.

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

No impact assessment has been produced in relation to this instrument. It retains the position prior to transition from the European Union and so no impact is foreseen on the private, voluntary or public sectors.