

Explanatory Memorandum to The Single Common Market Organisation (Consequential Amendments) (Wales) Regulations 2013.

This Explanatory Memorandum has been prepared by the Department for Sustainable Futures of the Welsh Government and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Member's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Single Common Market Organisation (Consequential Amendments) (Wales) Regulations 2013.

Alun Davies AM
Minister for Natural Resources and Food

27 December 2013

Explanatory Memorandum to The Single Common Market Organisation (Consequential Amendments) (Wales) Regulations 2013.

1. Description

This statutory instrument makes the minimum technical and consequential changes that are necessary to ensure that domestic enforcement agencies can continue to enforce our obligations under the new European Common Agricultural Policy (CAP) Single Common Market Organisation (SCMO) Regulation which will revoke and replace EU Regulation No 1234/2007 on 1 January 2014. The instrument itself does not impose any new obligations.

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

The Instrument breaches the 21 day rule. Following a 3-year period of negotiations on CAP reform, a new European SCMO Regulation was formally adopted on 16 December 2013. It was published in the Official Journal of the European Union on 21 December 2013 and comes into force on 1 January 2014.

Due to the very short period between the adoption of the new European SCMO Regulation at EU level and its entry into force, this instrument could not have been made on a date that would have enabled compliance with the 21 day rule. As far as possible, Legal Services prepared a draft of this instrument in advance of the formal adoption of the new European SCMO Regulation and steps have been taken to lay this instrument as soon as practicable.

It is important that this instrument comes into force on 1 January 2014 to comply with enforcement obligations under the new European SCMO Regulation. Without these Regulations the domestic legislation referred to in this instrument would no longer be in force as EU Regulation No 1234/2007 will have been repealed.

The EU Regulation will be implemented on the 1 January 2014 by other Member States. The UK needs to update domestic regulations to comply with EU Regulations; therefore, to ensure compliance there is a need to breach the 21 day rule. England will also be bringing equivalent regulations into force on 1 January 2014 by breaching the 21 day rule.

A letter of notification of any non-compliance has been prepared for the Minister for Local Government and Government Business to send to the Presiding Officer.

3. Legislative background

The Common Agricultural Policy is the system of subsidies and programmes under which European farmers work. The CAP covers farming, environmental measures and rural development, and controls EU agricultural markets.

On 16 December 2013, the Council of EU Agriculture Ministers formally adopted the four Basic Regulations for the reformed CAP as well as the Transitional Rules for 2014. This followed on from the approval of these Regulations by the European Parliament in November 2013. The new European SCMO Regulation, which is directly applicable in all EU Member States, revokes and replaces the current EU Regulation 1234/2007 (as amended) from 1 January 2014. It is directly applicable in all EU Member States.

The new European SCMO Regulation carries forward most of the existing rules for the management of agricultural markets in the EU, including rules on public intervention, private storage, marketing and quality standards, import and export rules, crisis measures, and competition and state aid rules.

There are a number of domestic regulations in place in Wales which implement and/or refer to the 2007 Regulation and provide entry powers to investigate breaches. In order to ensure legal certainty and avoid an enforcement gap, these domestic regulations need to be appropriately amended from 1 January 2014 to refer to the new European SCMO Regulation. No new or extended statutory powers of entry or offences are sought.

4. Purpose & intended effect of the legislation

The main purpose of the Instrument is to amend references to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) which appear in a number of Welsh statutory instruments. The amendments are necessary as Regulation 1234/2007 will be revoked and replaced when the new European SCMO Regulation comes into force on 1 January 2014.

It is important that this instrument comes into force on 1 January 2014 to comply with enforcement obligations under the new European SCMO Regulation. Without these Regulations the domestic legislation referred to in this instrument would no longer be operational as EU Regulation No 1234/2007 will have been revoked and replaced.

Consequently, there is a need to update the domestic regulations that refer to Regulation 1234/2007 in order to ensure that enforcement agencies continue to have appropriate powers of entry and other associated powers.

The new European SCMO Regulation also introduces changes to the rules for the classification of beef and pig carcasses, the reporting of deadweight beef prices by operators, and the definitions and sales descriptions of meat of bovine animals aged less than 12 months. There are some cross-references to these rules in domestic regulations which need to be updated in order to ensure consistency with the new European SCMO Regulation. The specific domestic regulations that are affected by these changes are the Beef and Pig Carcase Classification (Wales) Regulations 2011 and the Beef and Veal Labelling (Wales) Regulations 2011.

5. Consultation

The proposals for the European Commission's proposals for CAP reform and the domestic implementation of the revised CAP regime have been well publicised. The purpose of the new European SCMO Regulation was to update existing provisions and that trade and competition rules would be largely maintained. There has been little comment as there are no significant changes proposed.

The specific proposals from the Commission on beef and pig carcase classification were notified to industry stakeholders on 22 August 2012. Most respondents opposed the changes that the Commission were proposing. These comments were reported to the Commission and other Member States during the negotiations on the new European SCMO Regulation, but the UK was in a small minority and unable to resist the new proposals.

The Food Standards Agency has been notified of the relevant technical and consequential changes introduced by this instrument and has not raised any concerns.

This instrument makes the minimum technical and consequential changes needed to ensure that domestic enforcement agencies can continue to enforce our obligations under the new European SCMO Regulation. The instrument itself does not impose any new obligations.

6. Regulatory Impact Assessment (RIA)

The impact of this instrument on business, charities or voluntary bodies and the public sector is estimated to be of minimal cost because it is principally concerned with maintaining existing enforcement powers or involves only consequential amendments.

An Impact Assessment has therefore not been prepared for this instrument.