

SL(5)672 – The Trade in Animals and Related Products (Wales) (Amendment) (EU Exit) Regulations 2020

Background and Purpose

These Regulations are made by the Welsh Ministers 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.

The purpose of these Regulations is to ensure retained EU law operates effectively once the UK leaves the EU. The Regulations amend redundant references to EU laws and systems which will no longer be relevant following IP completion day. The amendments are made in accordance with the Withdrawal Act to ensure no legislative hindrance to movement of live animals (including equines), and trade in animal products (including meat) with the EU and other listed third countries following IP completion day.

Part 2 of these Regulations make operability amendments to the Trade in Animals and Related Products (Wales) Regulations 2011 (“the 2011 Regulations”). Part 3 makes consequential amendments to other statutory instruments relevant to the trade in animals and related products.

Procedure

Draft Affirmative

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2 (v) – that for any particular reason its form or meaning needs further explanation

Regulation 3 (a)(i) of these Regulations amends regulation 2(1) of the 2011 Regulations by providing that “*border control post*” has the meaning given in regulation 11 of the 2011 Regulations.

Further explanation is sought as to why this amendment is made given that regulation 2(3)(c) of the 2011 Regulations already provides that “*border control post*” (“*safle rheoli ar y ffin*”) is defined in regulation 11.



Merits Scrutiny

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

1. 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 Senedd

The 2011 Regulations which these Regulations amend establish a system for trade in live animals and genetic material and for the importation of live animals, genetic material and products of animal origin. It is noted that on 3 December 2020 the UK and Welsh Governments launched an eight week [consultation in England and Wales](#), seeking views on how to protect animal welfare during transport. The consultation primarily relates to ending live animal exports for slaughter and fattening that begin in or transit through England or Wales, and to further improve animal welfare in transport more generally. Whilst this consultation is not directly relevant to these Regulations, cross-cutting themes arise in relation to animal welfare and the system for trade in live animals after the UK leaves the EU.

In its [press release](#), the UK Government states that it recognizes that animal health and welfare is a "*fully devolved matter*" and is working closely with the Welsh Government on this consultation. With regards to the Scottish Government, the UK Government provides that it will "*discuss the results of the consultation with the Scottish Government with the aim of having similar rules apply across Great Britain on improving the protection for animals in transport.*"

Under the common framework programme, the UK Government and the devolved administrations agreed to work together to establish common approaches in some areas that are currently governed by EU law, but that are otherwise within areas of competence of the devolved administrations or legislatures. Animal health and welfare is one of the areas identified under the common framework programme.

It is notable that the UK and Welsh Governments are consulting over potential divergence to EU rules in relation to animal welfare, despite the absence of an agreed framework between the UK Government and all of the devolved administrations.

2. 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 Senedd

It is noted that the Secretary of State has been consulted through a letter issued on 17 November 2020, in accordance with the requirement under paragraph 4 of Schedule 2 to the European Union (Withdrawal) Act 2018 for the Welsh Ministers to consult the Secretary of State on any provisions made under those powers, which are due to come into force prior to IP completion day.



Implications arising from exiting the European Union

Save for those set out above, no other implications are identified for reporting under Standing Order 21.3 in respect of these Regulations.

Welsh Government response

Technical Scrutiny point 1:

The Welsh Government agree with this reporting point and note that this amendment is superfluous given that regulation 2(3)(c) of the 2011 Regulations already provides that “border control post” is defined in regulation 11. The Welsh Government will take steps to correct this at the next suitable opportunity.

Merits Scrutiny point 1:

Officials from all four Administrations have co-produced the provisional Animal Health and Welfare (AHW) Common Framework, which sets out the long term governance arrangements in areas returning to the UK following EU Exit and areas which intersect with devolved competence. It builds on the existing good relationships between all Devolved Administrations (DAs) in AH&W, and makes use of the governance arrangements such as the joint DAs policy decision-making bodies: the Animal Disease Policy Group and the Animal Welfare Policy Group.

The AHW Common Framework includes a commitment not to diverge from baseline standards in a manner harmful to biosecurity, welfare or the UK internal market across relevant policy areas in a way that threatens the Common Framework Principles, whilst retaining its competence to legislate independently.

The ability for each administration to diverge above these standards will not be affected, but such decisions should also be notified to the other administrations, so that any risk of harmful divergence can be identified and addressed in line with the arrangements set out in the Framework.

Any changes to AHW legislation will be considered on a four-administration basis to ensure that the highest possible standards continue to apply.

These Regulations are relevant to imports of animals, animal germinal and other products, not exports.

The Welsh Government are consulting jointly with the UK Government on proposals to end the export of live animals (excluding poultry) for slaughter and fattening where the journeys begin or transit through England or Wales. Leaving the EU has enabled us to pursue these proposals which would prevent unnecessary suffering of animals during transport. We are also consulting on proposals to further improve animal welfare in transport more generally, such as: reduced maximum journey times; more space and headroom during transport; stricter rules



on transporting animals in extreme temperatures; and tighter rules for transporting live animals by sea.

The joint Defra/Welsh Government consultation follows an earlier call for evidence by the UK Government and Devolved Administrations in April 2018, on controlling live exports for slaughter and improving animal welfare during transport, and a Farmed Animal Welfare Committee (now the Animal Welfare Committee (GB)) Opinion on the Welfare of Animals During Transport (2019). It should be noted that, because animals move largely without restrictions within the 'single market' of Great Britain, there is a mutual need for all administrations to work closely together, as divergent restrictions in one country could lead to the trade taking place elsewhere.

Legal Advisers

Legislation, Justice and Constitution Committee

4 December 2020



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee