

*Draft Regulations laid before Senedd Cymru under paragraph 1(9) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2020 No. (W. )**

**EXITING THE EUROPEAN  
UNION, WALES**

**ANIMAL HEALTH, WALES**

**The Trade in Animals and Related  
Products (Wales) (Amendment)  
(EU Exit) Regulations 2020**

**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 (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 relevant to the trade in animals and related products.

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.

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**The Trade in Animals and  
Related Products (Wales)  
(Amendment) (EU Exit)  
Regulations 2020**

*Made*

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*Coming into force in accordance with  
regulation 1(2) and (3)*

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<sup>(1)</sup>, make the following Regulations.

In accordance with paragraph 4 of Schedule 2<sup>(2)</sup> to that Act, to the extent that these Regulations are to come into force before implementation period completion day, the Welsh Ministers have consulted with the Secretary of State.

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(1) 2018 c. 16. Paragraph 21 of Schedule 7 was amended by paragraph 53 of Part 2 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(2) Paragraph 4 of Schedule 2 was amended by section 27(7)(a) of the European Union (Withdrawal Agreement) Act 2020 (c. 1).

In accordance with paragraph 1(9) of Schedule 7 to that Act, a draft of this instrument has been laid before and approved by a resolution of Senedd Cymru<sup>(1)</sup>.

## PART 1

### Introductory

#### **Title and commencement**

**1.**—(1) The title of these Regulations is the Trade in Animals and Related Products (Wales) (Amendment) (EU Exit) Regulations 2020.

(2) Part 1 and Part 3 come into force immediately before implementation period completion day.

(3) Part 2 comes into force on implementation period completion day.

## PART 2

### Amendment of the Trade in Animals and Related Products (Wales) Regulations 2011

#### **Amendment of the Trade in Animals and Related Products (Wales) Regulations 2011**

**2.** The Trade in Animals and Related Products (Wales) Regulations 2011<sup>(2)</sup> are amended as follows.

**3.** In regulation 2—

(a) in paragraph (1)—

(i) in the appropriate places insert—

““appropriate computerised information management system” (“*system rheoli gwybodaeth gyfrifiadurol briodol*”) means the computerised information management system for official controls referred to in Article 131 of the Official Controls Regulation;”;

““border control post” (“*saflle rheoli ar y ffin*”) has the meaning given in regulation 11;”;

““CHED” (“*DMIG*”) has the meaning given in regulation 10;”;

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(1) The reference in the European Union (Withdrawal) Act 2018 to the National Assembly for Wales now has effect as a reference to Senedd Cymru by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

(2) S.I. 2011/2379 (W. 252), amended by S.I. 2018/1152 (W. 234), S.I. 2018/1216 (W. 249), S.I. 2019/463 (W. 111), S.I. 2019/597 (W. 126), S.I. 2019/799 (W. 151), S.I. 2020/44 (W. 5) and S.I. 2020/177 (W. 38).

““third country” (*trydedd wlad*)” means any country or territory other than the British Islands.”;

(ii) in the definition of “importer” (*mewnforiwr*), for “United Kingdom” substitute “British Islands”;

(iii) in the definition of “intensified official controls” (*rheolaethau swyddogol dwysach*), for “EU Regulation” substitute “Official Controls Regulation”;

(iv) in the definition of “official controls” (*rheolaethau swyddogol*), for “EU Regulation” substitute “Official Controls Regulation”;

(v) in the definition of “product” (*cynnyrch*), for “inspection” substitute “control”;

(b) omit paragraph (2);

(c) in paragraph (3)—

(i) in sub-paragraph (a), for ““the EU Regulation” (*Rheoliad yr UE*)” substitute ““Official Controls Regulation” (*Rheoliad Rheolaethau Swyddogol*)”;

(ii) omit sub-paragraph (d).

**4.** In regulation 3—

(a) for the heading substitute “**Pet animals**”;

(b) after paragraph (1) insert—

“(1A) In addition to the requirements of these Regulations, dogs, cats and ferrets not exempted by paragraph (1) must not be moved into Wales from a third country unless they comply with the requirements set out in—

(a) points (a) to (d) of Article 10(1), subject to paragraph (1) of Article 12, of the Pets Regulation; and

(b) Commission Implementing Decision (EU) 2019/294 laying down the list of territories and third countries authorised for imports of dogs, cats and ferrets and the model animal health certificate for such imports.”

**5.** Omit regulation 4.

**6.** Omit Part 2.

**7.** In regulation 9—

(a) for “This Part” substitute “Subject to regulation 26, this Part”;

(b) for “country outside the European Union” substitute “third country”.

**8.** In regulation 10(4), for “EU Regulation” substitute “Official Controls Regulation”.

**9.** In regulation 11—

- (a) in paragraph (1), for “EU Regulation” where it first occurs to the end substitute “Official Controls Regulation”;
- (b) in paragraph (2), for “EU Regulation” substitute “Official Controls Regulation”;
- (c) in paragraph (4), omit “, and must inform the Commission of the suspension and the reason”.

**10.** In regulation 14—

- (a) in paragraph (1), after “must notify” insert “, through the appropriate computerised information management system.”;
- (b) in paragraph (3), for “CVED” substitute “CHED”.

**11.** In regulation 15—

- (a) in paragraph (1)—
  - (i) for “documentation specified for that consignment in the relevant legislation listed in Schedule 1” substitute “relevant export health certificate, in the form published by the Welsh Ministers or the Secretary of State, and other documentation specified for that consignment in retained direct EU legislation relating to importation”;
  - (ii) in sub-paragraph (a), for “EU Regulation” substitute “Official Controls Regulation”;
- (b) in paragraph (4)—
  - (i) in sub-paragraph (a), for “the lists” to the end substitute “a list drawn up in accordance with retained direct EU legislation for the species concerned or from which imports are otherwise prohibited under that legislation of approved third countries, or if imports from that country or territory are otherwise prohibited”;
  - (ii) in sub-paragraph (c), for “legislation of the European Union” substitute “retained direct EU legislation relating to importation”;
  - (iii) in sub-paragraph (e), for “legislation of the European Union” substitute “retained direct EU legislation”;
- (c) in paragraph (5)(b), after “product” insert “or live animal”.

**12. In regulation 17—**

- (a) for “the United Kingdom or a member State” substitute “Great Britain”;
- (b) for “Welsh Ministers of its arrival” substitute “appropriate authority of its arrival, and for this purpose “appropriate authority” (“*awdurdod priodol*”) means the Secretary of State (in relation to England), the Welsh Ministers (in relation to Wales) and the Scottish Ministers (in relation to Scotland)”.

**13. In regulation 18—**

- (a) except in the first place it occurs in paragraph (3), in each other place, including in the heading, for “the United Kingdom” substitute “Great Britain”;
- (b) in paragraph (2)—
  - (i) for “animal consigned to a destination outside the European Union” substitute “imported animal”;
  - (ii) after “country” insert “or territory”;
- (c) in paragraph (3), for “Products that arrive at a border control post for an ultimate destination outside the United Kingdom, and” substitute “Imported products”;
- (d) in paragraph (4)—
  - (i) in the first place it occurs, for “the European Union” substitute “the British Islands”;
  - (ii) in the second place it occurs, for “the European Union” substitute “any of the territories of the British Islands”.

**14. In regulation 19—**

- (a) in paragraph (a), for “inspection” substitute “control”;
- (b) in paragraph (b), in the English language text, after “CHED or” insert “without”.

**15. In regulation 20—**

- (a) in each place it occurs, for “EU Regulation” substitute “Official Controls Regulation”;
- (b) in paragraph (1), for “Article 1(2)” substitute “Chapter 5 of Title 2”;
- (c) in paragraph (2)—
  - (i) after “representative,” insert “and in accordance with Article 68(1)(b) of the Official Controls Regulation,”;
  - (ii) for the “United Kingdom” substitute “Wales”;
- (d) in paragraph (3)—

- (i) in the words before sub-paragraph (a), for “may” substitute “must”;
- (ii) in sub-paragraph (a), for “Article 1(2)” substitute “Chapter 5 of Title 2”;
- (iii) in sub-paragraph (b)—
  - (aa) for “the European Union” substitute “Great Britain”;
  - (bb) for “from arrival” substitute “of the date of the official notification of the decision of the enforcement authority after arrival of the consignment”.

**16.** In regulation 21, for “EU Regulation” substitute “Official Controls Regulation”.

**17.** In regulation 22—

- (a) in paragraph (1)—
  - (i) for “the United Kingdom” substitute “Great Britain”;
  - (ii) for “this regulation applies” to the end substitute “the enforcement authority may require extra physical checks and take samples for testing or analysis from subsequent consignments from the source concerned and take appropriate measures in accordance with Section 3 of Chapter 5 of Title 2 of the Official Controls Regulation”;
- (b) in paragraph (3), at the end insert “of the Official Controls Regulation”;
- (c) for paragraph (4) substitute—
 

“(4) Where the person responsible for consignments is informed that extra checks will be required in accordance with paragraph (1), that person must, before the arrival of future consignments at any border control post, lodge with the relevant enforcement authority a deposit or guarantee sufficient to cover all costs incurred by that enforcement authority, including the costs of taking samples and carrying out tests or analysis.”

**18.** In regulation 23—

- (a) in paragraph (1), for “Article 1(2)” substitute “Chapter 5 of Title 2”;
- (b) in each place it occurs, for “EU Regulation” substitute “Official Controls Regulation”.

**19.** In regulation 26—

- (a) in the heading, after “Exclusions” insert “, derogations and modifications”;
- (b) the existing text becomes paragraph (1);
- (c) after paragraph (1) insert—

“(2) The provisions of this Part apply subject to the derogations and modifications set out in Schedule 5.

(3) Paragraph (2) (and Schedule 5) have effect and remain in force from immediately after implementation period completion day until the end of the day on 31 July 2021.”

**20.** In regulation 27—

- (a) in each place it occurs, for “the Union” substitute “Great Britain”;
- (b) omit paragraph (1A);
- (c) in paragraph (3)(a)—
  - (i) omit “in the member State where the certificate was issued”;
  - (ii) for “inspection” substitute “control”.

**21.** For regulation 28 substitute—

**“Admission of products into warehouses in compliance with Customs procedures and storage procedures**

**28.** No person may bring into Great Britain a consignment of products that does not comply with the import requirements of these Regulations and the Customs procedures and storage procedures on imports in the Taxation (Cross-border Trade) Act 2018<sup>(1)</sup>.”

**22.** In regulation 29—

- (a) in paragraph (1)—
  - (i) for “the United Kingdom”, in both places it occurs, substitute “Great Britain”;
  - (ii) in sub-paragraph (a), after “country”, in both places it occurs, insert “or territory”;
  - (iii) in sub-paragraph (b), for “EU Regulation” to “a member State” substitute “Official Controls Regulation in relation to imports”;
- (b) in paragraph (2)—
  - (i) in sub-paragraph (a), after “country” insert “or territory”;
  - (ii) in sub-paragraph (b)(ii)—
    - (aa) omit “from the European Union”;
    - (bb) for “EU Regulation” substitute “Official Controls Regulation”;
    - (cc) for “other countries” substitute “third countries”.

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(1) 2018 c. 22.

**23.** In regulation 32(4), for “Article 134 of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code” substitute “the Taxation (Cross-border Trade) Act 2018”.

**24.** In regulation 34(h), for “EU Regulation” substitute “Official Controls Regulation”.

**25.** In regulation 35—

- (a) in paragraph (1)—
  - (i) in the first place it occurs, for “the Welsh Ministers” substitute “the appropriate enforcement authority”;
  - (ii) in the second place it occurs, for “the Welsh Ministers” substitute “that enforcement authority”;
- (b) in paragraph (3)—
  - (i) in the first place it occurs, for “the Welsh Ministers” substitute “the appropriate enforcement authority”;
  - (ii) in the second place it occurs, for “the Welsh Ministers” substitute “that enforcement authority”;
  - (iii) for “Article 1(2) of the EU Regulation” substitute “Chapter 5 of Title 2 of the Official Controls Regulation”;
- (c) in paragraphs (4) to (6), in each place it occurs, for “Welsh Ministers” substitute “enforcement authority”.

**26.** In regulation 36, in each place it occurs, for “EU Regulation” substitute “Official Controls Regulation”.

**27.** In regulation 37(1), for “the enforcement authorities in England, Scotland and Northern Ireland” substitute “an enforcement authority in any of the territories of the British Islands”.

**28.** In regulation 38—

- (a) for “Welsh Ministers” substitute “enforcement authority”;
- (b) for “EU Regulation” substitute “Official Controls Regulation”.

**29.** In regulation 39, in the table—

- (a) omit the rows for “regulation 5(1) and (1A)” to “regulation 7” (including the corresponding entries in the second column);
- (b) in the rows for “regulation 16(1)” and “regulation 16(2)”, in the corresponding entries in the second column for “CVED” substitute “CHED”;
- (c) in the row for “regulation 28”, for the corresponding entry in the second column

substitute “Importing a product that does not comply with the import requirements of these Regulations and the Customs procedures and storage procedures on imports in the Taxation (Cross-border Trade) Act 2018”;

- (d) in the section for Schedule 2, omit the rows for “paragraph 5(1)” to “paragraph 7” (including the corresponding entries in the second column);
- (e) omit the row for “Schedule 3 paragraph 4(3)” (including the corresponding entry in the second column).

**30. In Schedule 2—**

- (a) for the shoulder reference, substitute “Regulation 25”;
- (b) omit Part 1;
- (c) in Part 2, omit paragraph 10.

**31. In Schedule 3—**

- (a) for the shoulder reference substitute “Regulation 26(1)”;
- (b) in paragraph 2, for “the Commission Delegated Regulation” to the end substitute “Commission Delegated Regulation (EU) 2019/2122”;
- (c) in paragraph 4—
  - (i) in sub-paragraph (1), for “Regulation (EU) No 142/2011” substitute “Commission Regulation (EU) No 142/2011”;
  - (ii) omit sub-paragraph (2);
- (d) for paragraph 5 substitute—

**“Case 4: Consignments cleared in Great Britain**

**5.** Consignments of animals and products from third countries that have been presented to any border control post in Great Britain and cleared for free circulation.”;

- (e) in paragraph 6(2)(d), for “an official language of a member State” substitute “English (whether or not it also appears in any other language)”.

**32. After Schedule 4 insert—**

**“SCHEDULE 5** Regulation 26(2)

**Application of, derogations from, and modifications to, Part 3 in relation to**

# territories subject to special transitional import arrangements

## PART 1

### Introductory

#### Application

1. This Schedule applies to products and live animals that originate from—

- (a) a territory subject to special transitional import arrangements; or
- (b) a third country other than a territory subject to special transitional import arrangements where, before importation into Wales, the products or live animals concerned—
  - (i) have been presented to a member State border control post recognised by the Welsh Ministers;
  - (ii) are accompanied by a CHED which has been completed to the satisfaction of the relevant authority; and
  - (iii) have been pre-notified.

#### Interpretation

2. For the purposes of this Schedule—

“pre-notified” (*“rhaghysbysu”*) means notified using the appropriate computerised information management system;

“relevant goods” (*“nwyddau perthnasol”*) means products and live animals falling within paragraph 1;

“territory subject to special transitional import arrangements” (*“tiriogaeth sy’n ddarostyngedig i drefniadau mewnforio trosiannol arbennig”*) means—

- (a) an EU member State;
- (b) the Faroe Islands;
- (c) Greenland;
- (d) Iceland;
- (e) Liechtenstein;
- (f) Norway;
- (g) Switzerland;

“working day” (*“diwrnod gwaith”*) means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday

under section 1 of the Banking and Financial Dealings Act 1971<sup>(1)</sup>.

**Application of, derogations from, and modifications to, Part 3 of these Regulations**

3. The provisions of Part 3 of these Regulations apply to relevant goods with the derogations and modifications specified in Part 2 of this Schedule.

**PART 2**

**Derogations from, and modifications to, Part 3 of these Regulations**

**Derogation from regulation 13: place of importation**

4.—(1) Regulation 13 does not apply to relevant goods.

(2) Relevant goods are not required to enter Wales through a border control post and may enter Wales through any point of entry.

**Derogation from regulation 14: timing of notification of importation**

5.—(1) Regulation 14 does not apply to relevant goods.

(2) From 1 January 2021, relevant goods of the following descriptions must be pre-notified at least one working day before the expected time of arrival at a point of entry into Wales—

- (a) live animals;
- (b) germinal products;
- (c) animal by-products comprising—
  - (i) Category 1 material;
  - (ii) Category 2 material;
  - (iii) processed animal protein derived from Category 3 material,

but where the importer can provide evidence of a logistical constraint preventing such notification, that requirement may be satisfied by notification of its expected time of arrival at least four hours in advance.

(3) From 1 April 2021, relevant goods consisting of products of animal origin must be pre-notified at least one working day before the expected time of arrival at a point of entry into Wales; but where the importer can provide evidence of a logistical constraint preventing such notification, that requirement may be satisfied by

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(1) 1971 c. 80.

notification of its expected time of arrival at least four hours in advance.

- (4) For the purposes of this paragraph—
- (a) “Category 1 material”, “Category 2 material” and “Category 3 material” have the meanings given in Articles 8 to 10 of Regulation (EC) No 1069/2009;
  - (b) “processed animal protein” has the meaning given in point 5 of Annex 1 to Commission Regulation (EU) No 142/2011.

#### **Derogation from regulation 15: procedure on importation**

6.—(1) Regulation 15 does not apply to relevant goods but—

- (a) official controls must take place at the place of destination indicated in the relevant accompanying importation documentation on a random or risk basis, and in accordance with regulation 29 and 35;
- (b) from 1 January 2021, relevant goods consisting of—
  - (i) live animals or germinal products may not be imported into Wales unless they are accompanied by the appropriate health certificate for third country imports, in the form published by the Welsh Ministers or the Secretary of State;
  - (ii) products of animal origin and animal by-products must be accompanied by relevant commercial documents which at least identify the premises of origin and destination, and contain a description of the product and the quantity of the product; and
- (c) from 1 April 2021, relevant goods consisting of products of animal origin may not be imported into Wales unless they are accompanied by the appropriate health certificate for third country imports, in the form published by the Welsh Ministers or the Secretary of State.

(2) The documents described in sub-paragraph (1)(b) and (c) must accompany the consignment of the relevant goods concerned to its place of destination.

#### **Derogation from regulation 19(a): unchecked consignments**

7. Regulation 19(a) does not apply to relevant goods which have entered Wales through a point of entry

other than a border control post in accordance with this Schedule.

**Modification of regulation 20: action following failure of checks or seizure - products**

**8.** Regulation 20 applies as if—

- (a) in paragraph (1), after “Official Controls Regulation” there were inserted “or, in the case of relevant goods, does not comply with the provisions of Schedule 5”;
- (b) in paragraph (3)(b)—
  - (i) “from the same border control post” were omitted;
  - (ii) for “at the border control post” there were substituted “into Wales”.

**Modification of regulation 23: action following failure of checks or seizure - animals**

**9.** Regulation 23 applies as if, in paragraph (1), after “Official Controls Regulation” there were inserted “or, in the case of relevant goods, does not comply with the provisions of Schedule 5”.

**Derogation from regulation 27: re-importation of animals and products**

**10.**—(1) Regulation 27 does not apply in the circumstances described in sub-paragraph (2).

(2) Products and live animals that originate from Wales and which have been rejected from entering the European Union at a European Union border control post are not required to re-enter Wales through a Welsh border control post if—

- (a) in the case of products and live animals that are not high risk, notification of the re-entry has been given to the Welsh Ministers or the Food Standards Agency;
- (b) in the case of products and live animals that are high risk, the re-entry has been authorised in writing by the Welsh Ministers or the Food Standards Agency before the re-entry is to take place.

(3) In this paragraph, “high risk” means the products or live animals are suspected of constituting a serious risk to human or animal health or animal welfare.

## PART 3

### Additional rules in relation to relevant goods consisting of live animals

#### **Live animals**

**11.**—(1) This paragraph applies in relation to relevant goods consisting of live animals.

(2) The live animals must remain under restricted movement at the place of destination indicated in the health certificate until the completed and signed health certificate has been uploaded to the appropriate computerised information management system.

(3) The person responsible for the transportation of the live animals to the place of destination must be in possession of the appropriate authorisation in accordance with Council Regulation (EC) No 1/2005.”

## PART 3

### Consequential amendments of other statutory instruments

#### **Amendment of the Disease Control (Wales) Order 2003**

**33.** In the Disease Control (Wales) Order 2003(1), in paragraph 7 of Schedule 1, omit “approved under Part 1 of Schedule 2 to the Trade in Animals and Related Products (Wales) Regulations 2011”.

#### **Amendment of the Trade in Animals and Related Products (Amendment) (Wales) (EU Exit) Regulations 2019**

**34.** In the Trade in Animals and Related Products (Amendment) (Wales) (EU Exit) Regulations 2019(2), omit regulation 3.

#### **Amendment of the Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019**

**35.** In the Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019(3), omit regulation 3.

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(1) S.I. 2003/1966 (W. 211), amended by S.I. 2017/674 (W. 156).

(2) S.I. 2019/597 (W. 126).

(3) S.I. 2019/737 (W. 140).

**Amendment of the Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No. 2) Regulations 2019**

**36.** In the Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No. 2) Regulations 2019(1), omit regulation 2.

**Amendment of the Official Controls (Animals, Feed and Food, Plant Health Fees etc.) (Wales) Regulations 2020**

**37.** In the Official Controls (Animals, Feed and Food, Plant Health Fees etc.) (Wales) Regulations 2020(2), omit regulation 29.

*Name*

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

*Date*

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(1) S.I. 2019/1334 (W. 232).

(2) S.I. 2020/44 (W. 5).