

Lesley Griffiths MS
Minister for Rural Affairs and North Wales, and Trefnydd
Lynne Neagle MS
Deputy Minister for Mental Health and Wellbeing

12 December 2022

Dear both

The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 and The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022

At our meeting today, on 12 December 2022, we considered The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (the TARP 2022 Regulations) and The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (the Food 2022 Regulations). It is disappointing that we have not had a response to the 34 reporting points we have raised in relation to the TARP 2022 Regulations, particularly given the potential implications of the defective drafting we have identified. With regards to the Food 2022 Regulations, we were able to consider the Welsh Government's response to our reporting points.

We are concerned that it would appear the Welsh Government is continuing with its plans to seek the Senedd's approval for these regulations, despite both instruments being defective. We have therefore taken the decision to write to you urgently, following our consideration of these regulations in our meeting this afternoon.

We believe it is crucial that more information is provided to the Senedd before you ask its Members to approve regulations which contain known errors, and which could reduce the effectiveness, operability and accessibility of the law particularly for stakeholders and citizens directly affected by it.

The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022

Q1. The powers used to make these Regulations expire on 31 December 2022. Could you therefore please provide details of the powers that would be used to make corrections to any defective elements of the legislation?

Q2. What limitations would there be (if any) on laying legislation which is not defective after 31 December 2022 (instead of continuing with the existing Regulations before the Senedd)?

Q3. What would be the impact of not making these Regulations before 31 December 2022?

Q4. Why have you decided not to exercise powers contained in the *European Union (Withdrawal) Act 2018* to permit the use of the urgent (made affirmative) procedure as a means of correcting the defective drafting highlighted by the Committee?

Q5. Please could you indicate which points you agree / disagree with in our report in respect of these Regulations, so that Members can understand your position?

Q6. Please could you outline what the practical effect is of this legislation being made with deficiencies versus the practical effect of not making this legislation, including any health, safety and / or biosecurity risks?

Q7. Could you please confirm whether this situation gives rise to Northern Ireland/Great Britain divergence?

Q8. How do you intend to deal with correcting the defective Regulations should they be approved by the Senedd and to what timescale?

The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022

In the Welsh Government's response you state that you will correct the errors identified in reporting points 2, 3 and 5 "at the next available opportunity" and that you anticipate "that there will be a suitable statutory instrument... taken forward in the first half of 2023".

The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations are being made using powers in paragraph 1(1) of Schedule 2 and paragraph 21(b) of Schedule 7 to the *European Union (Withdrawal) Act 2018* and in sections 66(1), 74A(1) and 84 of the *Agriculture Act 1970*.

Q9. Again, we request confirmation about which powers will be exercised to make the appropriate correcting statutory instrument?

Q10. What would be the impact of not making these Regulations before 31 December 2022?

Q11. What impact assessment has the Welsh Government carried out to come to the decision that it is preferable to amend this defective legislation in the New Year rather than withdraw it and make new regulations using other powers?

Q12. When will the correcting Regulations be laid before the Senedd?

Q13. Could you please confirm whether this situation gives rise to Northern Ireland/Great Britain divergence?

We would urge you to address these questions during the relevant Plenary debates on Tuesday 13 December, and we expect a full written response to our questions as soon as possible.

I am copying this letter to the Senedd's Business Committee.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies
Chair