

Explanatory Memorandum to the Rural Affairs (Miscellaneous Amendments) (Wales) Regulations 2019

This Explanatory Memorandum has been prepared by Agriculture – Sustainability and Development Division and is laid before the National Assembly for Wales 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 Rural Affairs (Miscellaneous Amendments) (Wales) Regulations 2019.

Lesley Griffiths AM
Minister for Environment, Energy and Rural Affairs
5 April 2019

PART 1

1. Description

The Rural Affairs (Miscellaneous Amendments) (Wales) Regulations 2019 make technical amendments to remove obsolete references in the Common Agricultural Policy Non-IACS Support Schemes (Appeals) (Wales) Regulations 2004 and also consolidate and update the existing European Union (“EU”) references in the Schedule. These amendments ensure the legislation operates effectively and references to aid schemes are updated to capture any future amendments to retained EU legislation once the UK withdraws from the EU.

The Statutory Instrument makes an amendment to regulation 28 of the Trade in Animals and Related Products (Wales) Regulations 2011 (“TARP”).

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

These Regulations are made under section 2(2) of the European Communities Act 1972.

The European Communities Act 1972 (“1972 Act”) provides for either a negative or an affirmative resolution approval procedure to be used therefore a decision as to which procedure is appropriate must be made according to the particular circumstances of the individual piece of legislation.

The Regulations are being made under negative resolution on the basis they are not controversial or novel, do not amend primary legislation, do not impose or increase a financial burden and do not include consideration of any matters of public policy such as the creation of a new criminal offence.

3. Legislative background

The Regulations are made under powers conferred on the Welsh Ministers by virtue of the 1972 Act. The Welsh Ministers are designated for the purposes of section 2(2) of the 1972 Act in relation to the Common Agricultural Policy of the EU and will be made subject to the negative procedure.

The Common Agricultural Policy Non-IACS Support Schemes (Appeals) (Wales) Regulations 2004 provide the Welsh Ministers powers to establish an appeals procedure if an appeal is made following an initial determination regarding specific schemes listed in the Schedule to the Regulations. The

Schedule to those Regulations lists the aid schemes and the EU Regulations under which they are established.

The Regulations relate to the withdrawal of the United Kingdom from the EU because they correct out of date references to European and domestic legislation prior to the UK's exit from the EU.

4. Purpose and intended effect of the legislation

The technical changes made by these Regulations are necessary to ensure the effective and correct functioning of the statute book following the UK's exit from the EU. The amendments include updating references to EU legislation, and removing references to aid schemes which are no longer in place.

The Regulation have been drafted to provide the Welsh Ministers the power to establish an appeals procedure for any appeal received in relation to aid schemes established pursuant to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 , Regulation (EU) No 1144/2014 of the European Parliament and of the Council of 22 October 2014 on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries and repealing Council Regulation (EC) No 3/2008 and Regulation (EU) No 510/2014 of the European Parliament and of the Council of 16 April 2014 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products and repealing Council Regulations (EC) No 1216/2009 and (EC) No 614/2009.

Many of the aid schemes listed in the Schedule were established pursuant to powers in 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). Regulation 1234/2007 has been revoked and replaced by Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC)

No 1037/2001 and (EC) No 1234/2007. Correlation provisions in Article 230(2) of Regulation 1308/2013 transfer a number of aid provisions across and so whilst they continue to have effect, references to EU Regulation 1234/2007 need to be updated to reflect this change.

In addition, some aid schemes which had previously been in operation are no longer in existence, and references to these schemes need to be removed from the 2004 Regulations. By way of example the “Control of Casein in Cheese Making” scheme established pursuant to Article 12 of EU Regulation No. 1255/1999 on the Common Organisation of the Market in Milk and Milk Products is no longer in place.

The Regulations ensure Welsh Ministers will continue to have the powers to establish an appeals procedure if an appeal is made following an initial determination in relation to Non-IACS Common Agricultural Policy aid schemes. This also means if those EU Regulations (which on Exit Day will form part of retained EU law) are amended and new schemes introduced, or schemes are removed these changes are captured by the 2004 Regulations without further domestic amendments..

Regulation 4 of this Statutory Instrument corrects a previous amendment made to regulation 28 of TARP by the Rural Affairs, Environment, Fisheries and Food (Miscellaneous Amendments and Revocations) (Wales) Regulations 2019 and ensures the amended regulation operates effectively following withdrawal from the EU.

5. Consultation

Consultation was not undertaken as the changes to the principal Regulations were necessary to update references to EU Regulations and to remove obsolete provisions and are, therefore, minor and technical in nature. The amendment to TARP is technical in nature to ensure the accuracy of the updated reference

6. Regulatory Impact Assessment (RIA)

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 for it is foreseen this instrument has no impact on the business, public or voluntary sectors. The Regulations only introduce minor technical corrections.