

EXPLANATORY MEMORANDUM TO
THE ANIMAL WELFARE AND INVASIVE NON-NATIVE SPECIES
(AMENDMENT ETC.) (EU EXIT) REGULATIONS 2020

2020 No. 1590

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Environment, Food and Rural Affairs (“Defra”) and is laid before Parliament by Command of her Majesty.

2. Purpose of the Instrument

- 2.1 This instrument will ensure that retained European Union (“EU”) legislation and domestic implementing legislation relating to the protection of animals at the time of their killing, during transport and the criteria for animals being kept in control posts; the use of leghold traps, the import of pelts and manufactured goods of certain wild animal species; and the prevention and management of the introduction and spread of invasive non-native species remains operable now that we have left the EU. The proposed changes will ensure that the strict protections that are in place are maintained by addressing failures of EU law to operate effectively, as well as other deficiencies, arising from the withdrawal of the United Kingdom from the EU.
- 2.2 This instrument includes provisions related to EU Exit for Great Britain and Northern Ireland, as well as changes to domestic enforcement legislation for the United Kingdom. Changes to retained EU legislation (EU legislation preserved in UK law for legal continuity after EU Exit) and domestic (UK developed) legislation are being made in order to implement the Northern Ireland Protocol of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (“the Withdrawal Agreement”). Furthermore, the changes ensure that imports of pelts and pelt products from the EU will be treated the same as imports from any other third country. This change is in line with wider government policy regarding the United Kingdom’s exit from the EU.
- 2.3 This instrument also includes provisions to improve enforcement, which will enable enforcement officers to use discretion when transferring seized specimens to appropriate facilities, ensure the civil sanction provisions work as intended, and enable the effective implementation of emergency measures under domestic legislation for invasive non-native species.

Explanations

What did any relevant EU law do before exit day?

Animal Welfare

- 2.4 Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations sets out requirements for the transport of live vertebrate animals within the European Union in connection with an economic activity.

- 2.5 Council Regulation (EC) 1255/97 sets out criteria for control posts in the European Union. Control posts are areas for animals to be unloaded, fed, watered and rested during long journeys.
- 2.6 Council Regulation (EC) 1099/2009 on the protection of animals at the time of killing sets out requirements for the protection of animals being killed in slaughterhouses and elsewhere, .
- 2.7 Previous operability provisions related to EU Exit made to the EU Regulations referenced above were made through: the Animals (Legislative Functions) (EU Exit) Regulations 2019 (“SI 2019/588”) and the Animal Welfare (Amendment) (EU Exit) Regulations 2019 (“SI 2019/802”).

Leghold Traps and Pelt Imports

- 2.8 Council Regulation (EEC) No 3254/91 (the “Leghold Trap Regulation”) prohibits the use of leghold traps in the European Union and the introduction into the EU of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards.
- 2.9 Commission Regulation (EC) 1771/94 of 19 July 1994 laying down provisions on the introduction into the Community of pelts and manufactured goods of certain wild animal species put into effect a one-year delay on the import ban contained in the Leghold Trap Regulation (to 1st January 1996) and also set deadlines for the Commission to put in place related tertiary rules (by 1st September 1995).
- 2.10 Commission Regulation (EC) 35/97 of 10 January 1997 laying down provisions on the certification of pelts and goods covered by Council Regulation (EEC) No 3254/91 sets out the requirements for certificates of origin issued by competent authorities of exporting and re-exporting countries and the form of the certificates.
- 2.11 Council Decision 97/602/EC (as amended by Commission Decision 98/188/EC and Decision 98/596/EC) provides a ‘green list’ of approved countries from which imports of pelts and manufactured goods of certain wild animal species into the EU are permitted.

Invasive Non-native Species

- 2.12 Regulation (EU) No 1143/2014 of the European Parliament and the Council (“the EU IAS Regulation”) lays down rules on the prevention and management of the introduction and spread of invasive non-native species across the European Union (invasive non-native species are referred to as “invasive alien species” in the EU). The EU IAS Regulation provides for a set of measures to be taken in relation to the sixty-six invasive non-native species that are currently on the EU’s list of species of Union concern. These measures include restrictions on importing, transporting, keeping, breeding, selling, using or exchanging, cultivating or reproducing, or releasing into the environment any listed species.
- 2.13 The EU IAS Regulation requires Member States to put in place provisions on penalties applicable to infringements of the EU IAS Regulation and to take all necessary measures to ensure that they are applied. The Invasive Alien Species (Enforcement and Permitting) Order 2019 (“the 2019 Order”) fulfils this obligation by providing enforcement provisions, prescribing offences and penalties, and introducing permitting and licensing provisions. The 2019 Order also contains a number of

consequential changes and provisions to resolve or remove overlaps between existing legislation, such as the Wildlife and Countryside Act 1981, and the controls set out in the EU IAS Regulation.

- 2.14 Previous operability provisions related to EU Exit were made to the EU IAS Regulation and the 2019 Order through: the Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2019 (“SI 2019/223”); the Animal Health, Alien Species in Aquaculture and Invasive Non-native Species (Amendment) (EU Exit) Regulations 2019 (“SI 2019/813”); and the Animal Health, Invasive Alien Species, Plant Breeders’ Rights and Seeds (Amendment etc.) (EU Exit) Regulations 2019 (“SI 2019/1220”).

Why is it being changed?

Animal Welfare

- 2.15 While operability issues in retained EU law and domestic legislation on the welfare of animals being transported, kept at control posts or at the time of their killing have been addressed in other instruments in 2018 and 2019, additional corrections are required to bring this legislation into line with wider government policy regarding the United Kingdom’s exit from the European Union, to meet its obligations under the UK-Ireland Common Travel Area and in order to implement the Protocol on Ireland / Northern Ireland (“the Protocol”).

Leghold Traps and Pelt Imports

- 2.16 This instrument changes the Leghold Trap and Pelt Imports (Amendment etc.) (EU Exit) Regulations 2019 (“SI 2019/16”) and the Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019 (“SI 2019/473”), which prospectively change the Leghold Trap Regulation and two pieces of associated tertiary legislation (‘daughter’ legislation made under the Leghold Trap Regulation) (Commission Regulation (EC) No 35/97 and Council Decision (EC) No 97/602) to ensure their operability following the withdrawal of the UK from the EU. This instrument is being made to ensure that those earlier changes properly reflect the UK’s obligations under the Protocol, in particular the fact that the retained direct EU legislation in question will not extend nor apply to Northern Ireland, and to ensure unfettered access for movements of pelts and pelt products from Northern Ireland to Great Britain. The change made in this instrument to treat imports from the EU the same as imports from any other third country, has been made to bring this instrument into line with wider government policy regarding the United Kingdom’s exit from the European Union.

Invasive Non-native Species

- 2.17 Most operability issues in retained EU law and domestic legislation were addressed through instruments in 2019 as mentioned above (SI 2019/223, SI 2019/813 and SI 2019/1220). This instrument corrects further outstanding operability issues set out in 7.9 to 7.14, that need to be addressed before the end of the transition period. . In addition, amendments need to be made to retained EU law and domestic legislation in order to implement the Protocol, and changes are being made to improve enforcement and ensure the effective implementation of emergency measures under domestic legislation.

What will it now do?

Animal Welfare

- 2.18 The provisions in this instrument will ensure that requirements for the protection of the welfare of animals at the time of their killing, during transport and criteria for animals kept in control posts are maintained and that the protections and measures set out in existing legislation will operate as intended after the end of the transition period and in accordance with the Protocol.
- 2.19 In respect of Regulation (EC) 1/2005 on the protection of animals during transport and in order to facilitate enforcement, this instrument will end recognition in GB of Transporter Authorisations, driver and attendant Certificates of Competence, Vehicle Approvals and Journey Logs which have been issued by an EU Member State. As a result, EU transporters will need to apply for these documents issued by a competent authority in GB in order to be able to continue to transport in and through GB from the end of the transition period. Doing so will cause these individuals to incur a small cost.

Leghold Traps and Pelt Imports

- 2.20 The Leghold Trap Regulation and its associated tertiary legislation will continue to operate in a post-EU context and changes are in line with published policy set out in the Protocol command paper. They will continue to prohibit the use of leghold traps in Great Britain and the introduction into Great Britain, unless from Northern Ireland, of pelts, and manufactured goods incorporating pelts, of certain wild animal species unless the pelts originate from an approved country or are from animals which were captive-bred.
- 2.21 The Leghold Trap Regulation also requires certificates of origin to have been issued by competent authorities of exporting and re-exporting countries and presented to border control officers at the point of entry into Great Britain. This certification requirement does not apply to goods entering Great Britain from Northern Ireland unless the goods have travelled through Northern Ireland under a transit procedure on the way to Great Britain.
- 2.22 Imports from the EU will no longer be exempt from import controls, instead they will be treated the same as imports from any other third country. These changes make no other substantive policy changes to the requirements in this area.

Invasive Non-native Species

- 2.23 The provisions in this instrument will ensure that the strict protections that are in place against invasive non-native species are maintained and that the protections and measures set out in existing legislation will operate as intended after the end of the transition period and in accordance with wider UK Government policy in relation to the Protocol.
- 2.24 In addition, improvements to the domestic enforcement legislation will: enable enforcement officers to use discretion when transferring seized specimens to appropriate facilities; ensure that the civil sanction provisions work as intended by correcting a minor oversight in the provisions relating to enforcement undertakings; and ensure that there is clarity about the procedure for introducing emergency measures, that a breach of those measures would be a criminal offence and that other

relevant provisions, such as enforcement provisions and civil and criminal penalties, would apply.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 The territorial application of this instrument varies between provisions. This is set out in Part 4 of this Explanatory Memorandum.

4. Extent and Territorial Application

4.1 The extent and application of this instrument varies between provisions.

4.2 Part 1 (introduction) extends and applies to the United Kingdom.

4.3 Part 2 (amendments concerning animal welfare) extends to the United Kingdom. It applies to England and Wales and Scotland.

4.4 Part 3 (amendments concerning invasive non-native species): Chapter 1 makes amendments to retained EU legislation and the 2019 Order. It extends and applies to the United Kingdom; Chapter 2 makes amendments to the 2019 Order relating to Northern Ireland. It extends and applies to Northern Ireland; Chapter 3 makes amendments to the 2019 Order relating to the whole of the United Kingdom. It extends and applies to the United Kingdom, except for regulation 9(2) (which does not extend to Northern Ireland) and regulation 9(5) (which does not extend to Scotland or Northern Ireland).

4.5 The retained direct EU legislation which this instrument amends (via amendments to SI 2019/16, 2019/223, 2019/473, 2019/588 and 2019/802) is incorporated into domestic law under section 3 of the European Union (Withdrawal) Act 2018 save insofar as it applies to Northern Ireland for the purposes of the Protocol. Accordingly, Chapters 1 and 2 of Part 2 of this instrument will be of no practical application in Northern Ireland as the Protocol instead applies the EU legislation in Northern Ireland. The practical application of Chapter 1 of Part 3 in Northern Ireland is limited to its application in relation to the offshore marine area of the United Kingdom.

5. European Convention on Human Rights

5.1 The Parliamentary Under Secretary of State for Rural Affairs and Biosecurity, Lord Gardiner of Kimble has made the following statements regarding Human Rights:

“In my view the provisions of the Animal Welfare and Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2020 are compatible with the Convention rights. The Government has examined the compatibility of the provisions of the instrument with the Convention.”

“In particular, in relation to welfare of animals during transport, the Government has considered potential arguments that the decision to no longer recognise transporter authorisations, driver and attendant certificates of competence, and vehicle approval certificates issued by a Member State amounts to deprivation of a possession or is a disproportionate interference with the rights of the individual under Article 1 of

Protocol 1 to the Convention. I am, however, satisfied that any interference is necessary and proportionate on the basis that continuing recognition would prevent effective enforcement against organisations and individuals engaged in the transport of animals.”

6. Legislative Context

Animal Welfare

- 6.1 Part 2, Chapter 1 of this instrument makes amendments to the Animal Welfare (Amendment) (EU Exit) Regulations 2019 and the Animals (Legislative Functions) (EU Exit) Regulations 2019 (“SI 2019/802” and “SI 2019/588”), which make amendments to the applicable EU regulations relating to animal welfare described at paragraphs 2.4 to 2.9 above. The amendments made by this instrument ensure that the EU Regulations on the protection of animals at the time of their killing, during transport, and the criteria for animals to be kept in control posts continue to operate as intended after the end of the transition period and in accordance with the Protocol.

Leghold Traps and Pelt Imports

- 6.2 This instrument is made in exercise of the powers conferred by the European Union (Withdrawal) Act 2018 (c.16) in order to ensure operability of the Leghold Trap Regulation and associated tertiary legislation following the withdrawal of the United Kingdom from the European Union and taking account of the United Kingdom’s obligations under the Protocol.
- 6.3 The consequences of not proceeding with this instrument would be that the Leghold Trap Regulation would not function properly in relation to the United Kingdom’s obligations under the Protocol.
- 6.4 It is essential that UK import controls continue to operate and deliver the Leghold Trap Regulation’s objectives, in compliance with the Protocol, from the end of the transition period..

Invasive Non-native Species

- 6.5 The EU IAS Regulation sets out strict protections which prevent and manage the introduction and spread of invasive non-native species and the 2019 Order provided enforcement provisions, prescribed offences and penalties, and introduced permitting and licensing provisions. This instrument makes amendments to: ensure that the EU IAS Regulation and 2019 Order continue to operate as intended after the end of the transition period and in accordance with the Protocol; and improve enforcement and the effective implementation of emergency measures under domestic legislation.

7. Policy background

Animal Welfare

- 7.1 Amendments being made to Council Regulation (EC) 1/2005 through amendments to previous EU Exit legislation to make them operable following UK exit from the EU include the removal of recognition of EU Journey Logs, EU Member State-issued Transporter Authorisations, Certificates of Competence and Vehicle Authorisations in GB, whilst continuing to recognise those documents issued by the UK Crown Dependencies. It provides for recognition of Northern Ireland-issued Transporter Authorisations, Certificates of Competence and Vehicle Authorisations in GB. To

reflect the application of the retained Council Regulation (EC) 1/2005 to Great Britain only in accordance with the Protocol, it removes references to the regulations as applying to Northern Ireland. It makes provision for the recognition of training carried out in Republic of Ireland as equivalent as that of GB for the purposes of the granting of a Certificate of Competence in GB to ensure that the UK Government meets its obligations under the UK-Ireland Common Travel Area.

- 7.2 Amendments being made to Council Regulation (EC) 1255/97 through amendments to previous EU Exit legislation are to reflect the application of the retained Council Regulation (EC) 1255/97 to Great Britain only in accordance with the Protocol by removing references to the regulation as applying to Northern Ireland.
- 7.3 Amendments being made to Council Regulation (EC) 1099/2009 through amendments to previous EU Exit legislation are to reflect the application of the retained regulation to Great Britain only in accordance with the Protocol. The amendments made by this instrument also ensure that slaughterers' Certificates of Competence issued in any part of the UK are recognised across Great Britain.

Leghold Traps and Pelt Imports

- 7.4 The EU has adopted legislation on animal welfare in pursuit of high animal welfare standards. The Leghold Trap Regulation is part of that suite of legislation.
- 7.5 The UK has a long-standing commitment to the welfare of wildlife. Ministers have regularly referred to our country's strong record on welfare and have committed to delivering to the highest possible standards.
- 7.6 Defra is changing existing legislation to make it compatible with the Protocol. To do this two existing SIs (SI 2019/16 and SI 2019/473), which make changes to the retained EU Leghold Trap Regulation and its associated tertiary legislation, need to be changed.
- 7.7 This policy area is partly devolved (animal welfare and wildlife management) and partly reserved (import controls) and we have consulted with the Devolved Administrations to seek agreement on policy (what legislative changes to make) and delivery of them (who should make them).
- 7.8 This instrument will deliver the operability amendments on behalf of the UK, including matters of a devolved nature.

Invasive Non-native Species

- 7.9 The provisions in this instrument will amend the retained EU IAS Regulation and the Invasive Alien Species (Enforcement and Permitting) Order 2019 ("SI 2019/527"). The amendments will ensure that the legislation will operate as intended after the end of the transition period and implement the Protocol for invasive non-native species. These amendments relate in the main to Great Britain but do have some limited practical effect in Northern Ireland as regards the application of the retained EU IAS Regulation in the offshore marine area and to ensure that the 2019 Order continues to effectively implement the EU IAS Regulation and the retained EU IAS Regulation in Northern Ireland in reserved areas.
- 7.10 Under the retained EU IAS Regulation, transitional provisions for commercial stocks apply when a species is first listed. In accordance with the principle of unfettered market access under the Protocol, traders and businesses in Northern Ireland will be able to make use of these transitional provisions and to transport specimens to Great

Britain after the end of the transition period. Provisions in this instrument will ensure that the trade of goods from Northern Ireland to Great Britain can continue and that controls on the import of listed species are maintained.

- 7.11 Provisions in this instrument will ensure that the replacement bodies which will take on responsibility for functions currently exercised at EU level after the end of the transition period will operate as intended (the “Committee” under Article 27 of the retained EU IAS Regulation and the “Scientific Forum” under Article 28).
- 7.12 Amendments are also being made to the 2019 Order as it applies to the whole of the UK to enable enforcement officers in Scotland and Northern Ireland to use discretion when transferring seized specimens to appropriate establishments and facilities that are authorised to keep them. These provisions will mean that, for example, animals seized in Scotland can be transferred to the nearest appropriate facility in Scotland, rather than having to be transferred to a facility in England.
- 7.13 The instrument will correct Schedule 3 to the 2019 Order. Schedules 3 concerns civil sanctions and extends to England and Wales only. This change will ensure that there is clarity around the procedure for, and appeal rights relating to, a non-compliance penalty served following a failure to comply with an enforcement undertaking.
- 7.14 This instrument makes changes that clarify the procedure for introducing emergency measures, under Article 10 of the retained EU IAS Regulation, for species that are not already listed as “of special concern”. No new offences are being created and the existing penalties (criminal and civil) for breaches of restrictions relating to listed species, as set out in 2019 Order, would be applicable if emergency measures were introduced. Any emergency measures that are introduced would be for a time-limited period not exceeding 2 years.

8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument is being made using the power in sections 8 and 8C of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. This instrument is also being made under paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 (which includes the power to modify retained EU law and to make supplementary, incidental or consequential provision). In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

9. Consolidation

- 9.1 There are no plans for consolidation.

10. Consultation outcome

- 10.1 The changes being made are technical in nature or are in line with wider government policy relating to the United Kingdom’s exit from the European Union. We have not undertaken a formal public consultation with respect to the changes being made by this instrument.
- 10.2 The changes being made to animal welfare do not change the substantive policy with the exception of the removal of recognition of EU Journey Logs, EU Member State-

issued Transporter Authorisations, Certificates of Competence for drivers and attendants and Vehicle Authorisations. We have engaged directly with the industry representative bodies on this issue.

- 10.3 Defra has worked closely with officials in all of the Devolved Administrations during the development of all of the provisions in this instrument and all four UK administrations support these proposed changes.

11. Guidance

Animal Welfare

- 11.1 Government does not propose to issue guidance specifically about the provisions in this instrument relating to the protection of the welfare of animals during transport, kept at control posts or at the time of their killing. Guidance in these areas are available at GOV.UK.

Leghold Traps and Pelt Imports

- 11.2 This instrument does not introduce any changes requiring guidance in relation to the use of leghold traps and the import of pelts and manufactured goods of certain wild animal species.

Invasive Non-native Species

- 11.3 Whilst no specific guidance will be provided about the provisions in this instrument relating to invasive non-native species, guidance about the 2019 Order was published in August 2020.

12. Impact

Animal Welfare

- 12.1 In relation to the welfare of animals at the time of their killing and kept at control posts there is no, or no significant, impact on business, charities or voluntary bodies. In relation to the welfare of animals during transport, the impact on business, charities or voluntary bodies is minimal.
- 12.2 This instrument will end recognition in Great Britain of Transporter Authorisations, driver and attendant Certificates of Competence, Vehicle Approval and Journey Logs which have been issued in a Member State in respect of Regulation (EC) 1/2005 on the protection of animals during transport. As a result, a number of EU transporters, drivers and attendants will need to apply for these documents issued by a competent authority in GB or in Northern Ireland in order to be able to continue to transport in and through GB following the end of the transition period. Doing so will cause these individuals to incur a small cost.
- 12.3 There is no, or no significant, impact on the public sector.
- 12.4 An Impact Assessment has not been prepared for this instrument because, with the exception of non-recognition of EU issued documents relating to welfare of animals during transport, this instrument relates to the maintenance of existing regulatory standards. There are limited impacts on European business and no significant impacts on the public sector.

Leghold Traps and Pelt Imports

- 12.5 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.6 There is no, or no significant, impact on the public sector.
- 12.7 An Impact Assessment has not been prepared for this instrument in relation to leghold traps and the import of pelts and manufactured goods of certain wild animal species because this instrument relates to maintenance of existing regulatory controls, with the exception of SI extending the certification to EU MS.
- 12.8 In practice, this instrument will have no quantifiable impact on the current situation. Leghold traps will continue to be prohibited, as will the introduction into GB (unless from Northern Ireland) of pelts and manufactured goods incorporating pelts of certain wild animal species, unless the pelts originate from an approved country (or from the United Kingdom) and are accompanied by a certificate of origin issued by exporting and re-exporting competent authorities.

Invasive Non-native Species

- 12.9 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.10 There is no, or no significant, impact on the public sector.
- 12.11 An Impact Assessment has not been prepared for the provisions relating to invasive non-native species in this instrument because this instrument relates to the maintenance of existing regulatory standards.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.

Animal Welfare

- 13.2 This instrument largely maintains the status quo, or corrects identified errors, and therefore does not introduce new duties or burdens on business in relation to welfare of animals at the time of their killing and kept at control posts.
- 13.3 A limited number of European businesses and individuals will need to apply for a new GB or Northern Ireland Transporter Authorisation, Vehicle Approval or driver or attendant Certificate of Competence to undertake transport of animals on certain types of journeys.

Leghold Traps and Pelt Imports

- 13.4 The legislation applies to activities that are undertaken by a small number of small businesses.
- 13.5 No specific action is proposed to minimise regulatory burdens on small businesses. It is not appropriate in this case as it is not envisioned that business will be impacted by the changes in this instrument after the end of the transition period.

Invasive Non-native Species

- 13.6 This instrument largely maintains the status quo, or corrects identified errors, and therefore does not introduce new duties or burdens on business in relation to invasive non-native species.

- 13.7 No specific action is proposed to minimise regulatory burdens on small businesses. It is not appropriate in this case as it is not envisioned that business will be impacted by the changes in this instrument after the end of the transition period.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is through the course of normal departmental business as no substantive changes to current practices are being introduced.
- 14.2 For the amendments in this instrument made under the European Union (Withdrawal Act) 2018, no review clause is required.
- 14.3 This instrument does not include a statutory review clause in respect of the amendments being made under Section 2(2) of the European Communities Act 1972.
- 14.4 The Welfare of Animals at the Time of Killing (England) Regulations 2015 already contain a review clause.
- 14.5 The Invasive Alien Species (Enforcement and Permitting) Order 2019 already contains a review clause.

15. Contact

- 15.1 Finn Eaton at the Department for Environment, Food and Rural Affairs (email: Finn.Eaton@defra.gov.uk) can be contacted with any queries regarding this instrument.
- 15.2 Richard Pullen, Deputy Director for National Biodiversity and Ivory, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Gardiner of Kimble, the Parliamentary Under Secretary of State for Rural Affairs and Biosecurity at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative instrument.	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	A statement that the instrument does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA 2018 SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the instrument is urgent.
Explanations where amending regulations under s.2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an instrument after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA 1972	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA 1972, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under s. 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an instrument after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA 1972	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Appropriateness statement

- 1.1 Lord Gardiner of Kimble, the Parliamentary Under Secretary of State for Rural Affairs and Biosecurity has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Animal Welfare and Invasive Non-Native Species (Amendment etc.) (EU Exit) Regulations 2020 does no more than is appropriate”.

- 1.2 This is the case because in so far as this instrument uses the power in the European Union (Withdrawal) Act 2018, this instrument contains changes not affecting current standards and procedures, with the exception of the removal of recognition of EU Journey Logs, EU Member State issued Transport Authorisations, Certificates of Competence for drivers and attendants and Vehicle Authorisations, which is justified as there could not be effective enforcement if recognition were retained.

- 1.3 This instrument does no more than is required to ensure legislative compatibility with the UK’s obligations under the Protocol and the operability of Council Regulation (EEC) No 3254/91 and associated tertiary legislation following the withdrawal of the United Kingdom from the European Union.

2. Good reasons

- 2.1 Lord Gardiner of Kimble, the Parliamentary Under Secretary of State for Rural Affairs and Biosecurity has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”.

- 2.2 These are set out in section 7 in the main body of this Explanatory Memorandum.

3. Equalities

- 3.1 Lord Gardiner of Kimble, the Parliamentary Under Secretary of State for Rural Affairs and Biosecurity has made the following statement:

“The draft instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts”.

- 3.2 Lord Gardiner of Kimble, the Parliamentary Under Secretary of State for Rural Affairs and Biosecurity has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the draft instrument, I, Lord Gardiner of Kimble, the Parliamentary Under Secretary of State for Rural Affairs and Biosecurity have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010”.

4. Explanations

- 4.1 The explanations statement has been made in section 2 of the main body of this Explanatory Memorandum.