

EXPLANATORY MEMORANDUM TO
THE APPROVED COUNTRY LISTS (ANIMALS AND ANIMAL PRODUCTS)
(AMENDMENT) REGULATIONS 2021

2021 No. 211

1. Introduction

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

2. Purpose of the instrument

- 2.1 This instrument amends several pieces of retained EU law, using powers in the Trade in Animals and Animal Products (Legislative Functions) and Veterinary Surgeons (Amendment) (EU Exit) Regulations 2019 (SI 2019/1225). It corrects deficiencies that are present in European Union law and which were retained through the European Union (Withdrawal) Act 2018. The amendments make provision for Iceland to export animal products to Great Britain and ensure that trade from Iceland can continue with minimal disruption. Northern Ireland will remain aligned with European Union import legislation under the Northern Ireland Protocol.

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 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is Great Britain.
4.2 The territorial application of this instrument is Great Britain.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 This instrument makes amendments to the following pieces of retained EU law:
- Commission Decision 2007/777/EC laying down the animal and public health conditions and model certificates for imports of certain meat products and treated stomachs, bladders and intestines for human consumption from third countries;

- Commission Regulation (EC) No 798/2008 laying down a list of third countries, territories, zones or compartments from which poultry and poultry products may be imported into and transit through the Community and the veterinary certification requirements;
- Commission Regulation (EC) No 119/2009 laying down a list of third countries or parts thereof, for imports into, or transit through, the Community of meat of wild leporidae, of certain wild land mammals and of farmed rabbits and the veterinary certification requirements;
- Commission Regulation (EU) No 206/2010 laying down lists of third countries, territories or parts thereof authorised for the introduction into the European Union of certain animals and fresh meat and the veterinary certification requirements;
- Commission Regulation (EU) 605/2010 laying down animal and public health and veterinary certification conditions for the introduction into the European Union of raw milk, dairy products, colostrum and colostrum-based products intended for human consumption;
- Commission Decision 2011/163/EU on the approval of plans submitted by third countries.

6.2 The Trade in Animals and Animal Products (Legislative Functions) and Veterinary Surgeons (Amendment) (EU Exit) Regulations 2019 provides powers for this legislation to be amended to add, remove or amend countries to the lists in this legislation, following an assessment by the Secretary of State of the risks to animal health and public health in the United Kingdom. The consent of the appropriate authorities – the Welsh Ministers in relation to Wales and the Scottish Ministers in relation to Scotland – is required for the exercise of these powers.

6.3 This instrument addresses a number of deficiencies in European Union law that have been retained in Great Britain through the European Union (Withdrawal) Act 2018. These deficiencies are the result of inconsistencies in how third countries are listed for harmonised and non-harmonised commodities in European Union legislation.

7. Policy background

What is being done and why?

7.1 This instrument makes changes to the Regulations specified above under section 6.1 (Legislative Context). There is no change being made to policy.

7.2 Trading partners that are approved to export animals and animal products to Great Britain must be listed in a number of annexes and articles in retained European Union law.

7.3 In order to maintain existing approvals for European Union Member States and European Free Trade Association states, three instruments were made last year which added these countries to lists of approved third countries in domestic legislation. These instruments were:

- The Import of, and Trade in, Animals and Animal Products (Miscellaneous Amendments) (EU Exit) Regulations 2020 (SI 2020/1462)

- The Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds (Amendment) (EU Exit) Regulations 2020 (SI 2020/1388)
 - The Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) (No. 2) Regulations 2020 (SI 2020/1631)
- 7.4 When these instruments were drafted, Defra was unaware of inconsistencies in European Union law outlined in Section 6.1. As a result, Iceland has not been listed as being approved to export all animal products they were eligible to export to Great Britain prior to the end of the Transition period.
- 7.5 Regulations 6, 7, 8, 9, 11 and 12 of the Trade in Animals and Animal Products (Legislative Functions) and Veterinary Surgeons (Amendment) (EU Exit) Regulations 2019 require an assessment by the Secretary of State of the risks to animal health and public health in the United Kingdom to have been carried out prior to amending third country lists. An assessment has been carried out of the European Economic Area Agreement which has established that Iceland is harmonised with European Union law for animals and animal products except for live animals, other than fish and aquaculture animals, and animal products such as ova, embryo and semen. Therefore, maintaining Iceland's existing approvals for animals and animal products poses no additional risks to animal health and public health to Great Britain.
- 7.6 In order to maintain existing approvals for Iceland to export animals and animal products to Great Britain, this instrument will either add Iceland to third country lists in the annexes of the following pieces of legislation, or amend the details within those annexes, using the powers in the Trade in Animals and Animal Products (Legislative Functions) and Veterinary Surgeons (Amendment) (EU Exit) Regulations 2019 for amending these lists:
- Commission Decision 2007/777/EC laying down the animal and public health conditions and model certificates for imports of certain meat products and treated stomachs, bladders and intestines for human consumption from third countries
 - Commission Regulation (EC) No 798/2008 laying down a list of third countries, territories, zones or compartments from which poultry and poultry products may be imported into and transit through the Community and the veterinary certification requirements
 - Commission Regulation (EC) No 119/2009 laying down a list of third countries or parts thereof, for imports into, or transit through, the Community of meat of wild leporidae, of certain wild land mammals and of farmed rabbits and the veterinary certification requirements
 - Commission Regulation (EU) No 206/2010 laying down lists of third countries, territories or parts thereof authorised for the introduction into the European Union of certain animals and fresh meat and the veterinary certification requirements
 - Commission Regulation (EU) 605/2010 laying down animal and public health and veterinary certification conditions for the introduction into the European Union of raw milk, dairy products, colostrum and colostrum-based products intended for human consumption
 - Commission Decision 2011/163/EU on the approval of plans submitted by third countries

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

8.1 This instrument does not trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 None. There are no plans for consolidation.

10. Consultation outcome

10.1 Defra has not undertaken a public consultation on this instrument as it does not constitute a change in policy and will maintain the status quo. Defra has formally consulted with Scottish Government, Welsh Government, Food Standards Agency and Food Standards Scotland on this instrument. They agreed that listing Iceland in this instrument was consistent with the policy of maintaining existing approvals to export animals and animal products to Great Britain and have given their consent.

11. Guidance

11.1 As this instrument does not substantively change the process for exporting animals and animal products from Iceland to Great Britain existing guidance covering the trade in animals and animal products and the Border Operating Model is sufficient. Additional guidance will only be necessary if this instrument does not come into force by the 1st April 2021 when documentary checks for products of animal origin commence.

12. Impact

12.1 If this instrument comes into force by 1st April 2021, there will be no significant impact on business, charities or voluntary bodies. If this instrument does not come into force by 1st April 2021 there will be a significant impact for those who currently import animal products from Iceland the most significant sectors of which are fishery and aquaculture. This instrument will ensure that businesses that currently import animal products from Iceland may continue to import those commodities. Therefore, the impact of this legislation is low.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because this instrument relates to the maintenance of existing approvals.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses. As outlined in Section 12.1, there will be no significant impact on small businesses provided this instrument comes into force by 1st April 2021.

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 procedures or standards for the export of animals and animal products from Iceland are being introduced.

15. Contact

- 15.1 Anna Nicholls at the Department for Environment, Food and Rural Affairs Telephone: 02078955447 or email: Anna.nicholls@defra.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Peter Jinks, Deputy Director for SPS and Imports, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Parliamentary Under Secretary of State for Rural Affairs and Biosecurity, Lord Gardiner of Kimble, at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.