

EXPLANATORY MEMORANDUM TO
THE OFFICIAL CONTROLS (EXTENSION OF TRANSITIONAL PERIODS)
(MISCELLANEOUS AMENDMENTS) REGULATIONS 2024

2024 No. 20

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to implement the first milestone of the Border Target Operating Model, that comes into effect by 31 January 2024, to protect biosecurity and support trade between Great Britain (“GB”) and third countries. Consequently, this instrument makes amendments to end exemptions for health certificates and phytosanitary certificates for certain goods imported from the European Economic Area (“EEA”), Greenland, Faroe Islands and certain European Free Trade Association (“EFTA”) countries from 31 January 2024.

2.2 This instrument also amends Regulation (EU) 2017/625 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products (“the Official Controls Regulation”) to limit the temporary exemption from the requirement for pre-notification, which applies to certain relevant goods (as defined in Annex 6 to the Official Controls Regulation) from the Republic of Ireland, so that from 31 January 2024 it applies only in relation to Qualifying Northern Ireland Goods (“QNIGs”) (defined by S.I. 2020/1454).

2.3 An error in Annex 6 to the Official Controls Regulation, and the Official Controls (Extension of Transitional Periods) (England and Wales) (Amendment) (No. 2) Regulations 2021 (“S.I. 2021/1443”) is also corrected by this instrument.

2.4 Finally, this instrument extends the Transitional Staging Period (“the TSP”), a period during which the requirements for certain official documents, and for the performance of official controls in relation to some categories of animals, plants and other goods imported into GB, have been temporarily eased.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales and Scotland.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales and Scotland, apart from Regulations 3, 5 and

10 which apply to England-only, Regulation 6 and 7 which apply to Wales-only, and Regulation 8 which applies to Scotland-only.

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 The amendments introduced by this instrument are to implement the Border Target Operating Model and do not include any policy changes.
- 6.2 The principal legislation governing the controls required on movement into Great Britain of animals, animal products, food, feed and plants is set out in retained EU legislation, namely Regulation (EU) 2016/2031 (“the Plant Health Regulation”) for plant health and the Official Controls Regulation for animal, plant and public health (together “the EU Regulations”), and the additional legislation made under these Regulations.
- 6.3 Under powers conferred by the European Union (Withdrawal) Act 2018, this retained EU legislation was amended where necessary, in order to address failures in retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.
- 6.4 Annex 6 to the Official Controls Regulation provides for a TSP which temporarily eases the requirement for the performance of official controls in relation to specified categories of plants, animals and other goods imported into Great Britain from relevant third countries (also defined in Annex 6). The current expiration date for the TSP is 31 January 2024, as detailed in the Official Controls (Extension of Transitional Periods) Regulations 2021 (“S.I. 2021/809”).
- 6.5 Annex 6 to the Official Controls Regulations also provides easements from official controls to products of animal origin (“POAO”) and certain animal by products (“ABP”) during the transitional period and exempts certain goods from the Island of Ireland from the pre-notification requirement.
- 6.6 The Trade in Animals and Related Products Regulations (“TARP”) in England (“S.I. 2011/1197”), Wales (“S.I. 2011/2379” (W.252)) and Scotland (“S.S.I. 2012/177”) implements the Official Controls Regulation, giving effect to law concerning the importation into Great Britain of animals and animal products, including the veterinary checks regime and imports conditions for live animals and animal products imported from countries other than the British Islands.

7. Policy background

What is being done and why?

- 7.1 This instrument ends the exemption for health certificates and phytosanitary certificates for goods classified as medium risk. Therefore, from 31 January 2024, certain plants, plant products and other objects from the EU, Liechtenstein, and Switzerland will need to be accompanied by a Phytosanitary Certificate, by way of amendments to S.I. 2020/1482. To prevent undue impacts on trade, this instrument ensures that plant goods that were despatched from their place of origin without a certificate, before this instrument comes into force, can still enter GB.

- 7.2 Similarly TARP, S.I. 2011/1197 and corresponding legislation in Wales and Scotland (S.I. 2011/2379 and S.S.I 2012/177) is amended to ensure that medium risk products of animal origin, animal by-products and derived products will need to be accompanied by a GB import health certificate in the form published by the Secretary of State (or devolved Ministers, where applicable) online.
- 7.3 These measures ensure that goods which pose a medium risk to GB biosecurity are subject to proportionate import controls, such as pre-notification and certification in line with the Border Target Operating Model. High-risk goods such as certain plants, live animals and germinal products from the EU, Liechtenstein, and Switzerland are already required to be pre-notified and accompanied by appropriate certificate since 1 January 2021.
- 7.4 TARP in England (S.I. 2011/1197), and corresponding legislation in Wales and Scotland (S.I. 2011/2379 and S.S.I. 2012/177) is also amended to limit the existing exemption from pre-notification that applies to certain goods entering GB from the Republic of Ireland, so that from 31 January 2024 only QNIGs continue to benefit from that exemption. This instrument makes corresponding amendments, and amendments to include other goods, to Annex 6 to the Official Controls Regulation. As a result, QNIGs moving into Great Britain indirectly via the Republic of Ireland will continue to enjoy unfettered access, whilst non-qualifying goods which may pose a risk to GB biosecurity will be subject to proportionate import controls.
- 7.5 The TSP was introduced as part of a phased approach to import controls on goods from EEA, the Faroe Islands, Greenland, and certain EFTA countries. The TSP is currently due to expire on 30 January 2024, however due to the milestones under the published Border Target Operating Model, this is being extended to 29 April 2024 via an amendment to S.I. 2021/809.
- 7.6 The suspension of the requirement for meat preparations imported into England from EEA, the Faroe Islands, Greenland, and certain EFTA countries, to be deep frozen via The Meat Preparations (Amendment and Transitory Modification) (England) (EU Exit) Regulations 2020 (S.I. 2000/1666) as amended, is also being temporarily extended in line with the revised transitional staging period controls until 29 April 2024. This will allow meat preparations from these countries to continue to be imported in a chilled condition. Development of permanent policies in this area is currently in progress and is intended to be addressed in further secondary legislation in due course.
- 7.7 These staggered milestones will ensure that these biosecurity controls are introduced in a timely fashion but will allow businesses the time needed to prepare for the biosecurity controls set out in the Border Target Operating Model.
- 7.8 Finally, this instrument corrects an error in Annex 6 to the Official Controls Regulation and in S.I. 2021/1443 to provide the correct legislative references.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the United Kingdom from the European Union. This instrument makes amendments that reflect the impact of EU Exit and the operation of the transitional period in relation to the risk-based control of SPS imports.

9. Consolidation

9.1 This is not a consolidation instrument.

10. Consultation outcome

10.1 A consultation exercise was undertaken, summarising the changes to be made by this instrument and inviting views on the proposed amendments.

10.2 The consultation was targeted at key stakeholders in the SPS sector, including representative trade and industry organisations, interest groups and Port Health Authorities. Over 300 organisations and individuals were consulted. We received a number of queries on the proposed measures, but no comments were submitted by stakeholders for consideration.

10.3 The Scottish and Welsh devolved administrations have been consulted about the proposed amendments and are content, noting the importance of maintaining a consistent approach to SPS controls in GB.

11. Guidance

11.1 The medium risk goods have been listed on gov.uk (as detailed for plants¹ and for animal products²).

11.2 The publication of the Border Target Operating Model, which lists the relevant provisions and their respective milestones, was also published on gov.uk³.

12. Impact

12.1 There is no significant impact on business, charities or voluntary bodies. Businesses importing goods from the EU and certain other countries will now need to comply with certain import requirements applied to all existing third countries. This is a result of the EU now being a third country.

12.2 There is no significant impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because it does not set out new policy. These changes are amendments that reflect the impact of EU Exit and the operation of the transitional period in relation to the risk-based control of SPS imports.

13. Regulating small business

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

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The basis for this is that amendments apply equally to all businesses importing animal and plant goods. There is no exemption for small businesses, given the importance of protecting biosecurity through the actions of all businesses, regardless of their size.

¹ [TOM risk categorisations - UK Plant Health Information Portal \(defra.gov.uk\)](https://defra.gov.uk)

² [Import risk categories for animal and animal product imports from the EU to Great Britain: summary tables - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

³ [The Border Target Operating Model: August 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

14. Monitoring & review

- 14.1 No specific monitoring arrangements are needed as this instrument does not set out new policy, but carries out amendments that reflect the impact of EU Exit.
- 14.2 Regarding the TSP extension, this instrument makes provision for time-limited measures, so no review clause is required.

15. Contact

- 15.1 Suzie Pearce at the Department for Environment, Food and Rural Affairs, Telephone: 0208 0267 171 or email: Suzannah.pearce@defra.gov.uk can be contacted with any queries regarding this instrument.
- 15.2 Nicola Spence, Deputy Director for Plant Health Bees and Seeds, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Douglas-Miller, Parliamentary Under Secretary of State, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.