

SL(5)714 – The Official Controls (Animals, Feed and Food, Plant Health Fees etc.) (Wales) (Amendment) (EU Exit) Regulations 2020

Background and Purpose

These Regulations are made in exercise of the power conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make operability amendments relating to official controls to the Trade in Animals and Related Products (Wales) Regulations 2011 (S.I. 2011/2379) and the Official Controls (Animals, Feed and Food, Plant Health Fees etc) (Wales) Regulations 2020 (S.I. 2020/44).

In particular, the amendments made by these Regulations ensure that the bodies responsible for enforcing the requirements of the Official Control Regulations in Wales will continue to have the enforcement powers, such as power of inspection that they require, post the implementation period date.

Procedure

Made affirmative.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 in respect of this instrument:

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

The Committee notes the explanation provided by the Lesley Griffiths MS, Minister for Environment, Energy and Rural Affairs in a letter to the Llywydd dated 23 December 2020 concerning the use of the made affirmative procedure for these Regulations (which would ordinarily be subject to the negative procedure) given time constraints and the need for the legislation to come into force on implementation period completion day.

In particular, we note the following paragraph of the letter:



“This instrument will come into force under the urgent made affirmative procedure before it will be laid before the Senedd. This is necessary because the amendments made by the Regulations have been the result of delayed discussions with UK administrations and late alterations to equivalent English Regulations. The amendments in the Regulations include a new regulation making power which will need to be exercised early in the New Year in order to dis-apply certain conditions on imports from the EU into Wales. As a result of this delay, the Regulations, which would ordinarily be subject to the negative procedure, have to proceed under the ‘urgent made affirmative’ procedure on the basis that there is neither sufficient time to satisfy the sifting conditions set out the Withdrawal Act, nor lay the Regulations voluntarily in accordance with the ‘draft affirmative’ procedure.”

In accordance with the procedure set out in paragraph 7 of Schedule 7 to the European Union (Withdrawal) Act 2018, this instrument must be approved by the Senedd by 7 February in order for it to remain in effect.”

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

We note that only the English language version Explanatory Memorandum was laid with these Regulations.

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

4 January 2021

