

Draft Regulations laid before the National Assembly for Wales under paragraph 1(8) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2019 No. (W.)

**EXITING THE EUROPEAN
UNION, WALES**

ANIMALS, WALES

FOOD, WALES

PLANT HEALTH, WALES

SEEDS, WALES

**The Rural Affairs (Miscellaneous
Amendments) (Wales) (EU Exit)
Regulations 2019**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 (c.16) 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 amendments to subordinate legislation, which applies in relation to Wales, relevant to cattle identification; the trade in animals and related products; examination for residues and the maximum residue limits in respect of animals and animal products; transmissible spongiform encephalopathies; seed marketing and plant health.

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 as to the likely costs and benefits of complying with these Regulations.

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Made

*Coming into force in accordance with
regulation 1*

The Welsh Ministers, in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018⁽¹⁾, make the following Regulations.

In accordance with paragraph 1(8) of Schedule 7 to that Act a draft of this instrument has been laid before the National Assembly for Wales and approved by a resolution of the National Assembly for Wales.

Title, commencement and application

1.—(1) The title of these Regulations is the Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019.

(2) This regulation and regulation 8 come into force immediately before exit day.

(3) The remainder of these Regulations come into force on exit day.

(4) These Regulations apply in relation to Wales.

Amendment of the Cattle Identification (Wales) Regulations 2007

2. In paragraph 13 in Part 2 of Schedule 3 to the Cattle Identification (Wales) Regulations 2007(1), omit sub-paragraph (2).

Amendment of the Trade in Animals and Related Products (Wales) Regulations 2011

3.—(1) The Trade in Animals and Related Products (Wales) Regulations 2011(2) are amended as follows.

(2) In regulation 17, in the words before paragraph (a)—

(a) omit “box 30, 31, 33 or 34 of”; and

(b) for “the European Union” substitute “Wales”.

(3) In regulation 38, for “trade between” substitute “imports from”.

Amendment of the Seed Marketing (Wales) Regulations 2012

4. In regulation 30 of the Seed Marketing (Wales) Regulations 2012(3), for the words from “Secretary of State” to “purposes of” substitute “Welsh Ministers may temporarily permit the marketing of seed not satisfying the requirements of minimum germination under conditions determined in accordance with”.

Amendment of the Animal Health (Miscellaneous Fees) (Wales) Regulations 2018

5.—(1) The Animal Health (Miscellaneous Fees) (Wales) Regulations 2018(4) are amended as follows.

(2) In regulation 2, for the definition of “third country” substitute—

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| (1) | S.I. 2007/842 (W. 74), to which there are amendments not relevant to these Regulations. |
| (2) | S.I. 2011/2379 (W. 252), to which there are amendments not relevant to these Regulations. |
| (3) | S.I. 2012/245 (W. 39), to which there are amendments not relevant to these Regulations. |
| (4) | S.I. 2018/650 (W. 122). |

““third country” (*trydedd wlad*)” means a country other than a member State except that—

(a) in regulation 4, it has the meaning it bears in Regulation (EC) No 2160/2003 on the control of salmonella and other specified food-borne zoonotic agents; and

(b) in regulation 9 and Schedule 6, it has the meaning it bears in the 2011 Regulations;”.

(3) In regulation 4(1) and its heading, omit “national”.

(4) In the heading to Schedule 1, omit “national”.

Amendment of the Transmissible Spongiform Encephalopathies (Wales) Regulations 2018

6. In regulation 5(6)(e) of the Transmissible Spongiform Encephalopathies (Wales) Regulations 2018(1), for “EU Commission” substitute “Welsh Ministers”.

Amendment of the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (Wales) Regulations 2019

7. In regulation 2(1) of the Animals and Animal Products (Examination of Residues and Maximum Residue Limits) (Wales) Regulations 2019(2), in the definition of “unauthorised substance” (*sylwedd anawdurdodedig*) for “EU legislation” substitute “retained EU law”.

Amendment of the Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019

8.—(1) The Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019(3) are amended as follows.

(2) In regulation 8(a)—

(a) in sub-paragraph (i)—

(i) in the inserted definition of “appropriate UK plant health authority”, after paragraph (e) insert—

“(f) in relation to the Bailiwick of Guernsey, the Committee for the Environment & Infrastructure of the States of Guernsey;

(g) in relation to the Bailiwick of Jersey, the Department of Environment of the States of Jersey;

(1) S.I. 2018 /968 (W. 195), to which there are amendments not relevant to these Regulations.

(2) S.I. 2019/XXX (W. XXX).

(3) S.I. 2019/XXX (W. XXX).

(h) in relation to the Isle of Man, the Department of Environment, Food and Agriculture of the Isle of Man;”;

(ii) after the inserted definition of “appropriate UK plant health authority” insert—

““CD territory” (*“tiriogaeth ddibynnol ar y Goron”*) means the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man;”;

(b) for sub-paragraph (xxviii) substitute—

“(xxviii)for the definition of “third country” substitute—

““third country” (*“trydedd wlad”*) means any country or territory outside the British Islands”;”.

(3) For regulation 15 substitute—

“15. In article 8—

(a) in paragraph (1)—

(i) for the words from “introduced into Wales in the baggage of a passenger or other traveller” substitute “brought into Wales in the baggage of a passenger or other traveller coming from any third country, other than the European Union or Switzerland, or to any exempt material which is brought into Wales in the baggage of a passenger or other traveller coming from the European Union or Switzerland”;

(ii) in paragraph (a), for “(f)” substitute “(h)”;

(iii) after paragraph (b) insert—

“(ba) article 6A(1);”;

(iv) after sub-paragraph (d), insert—
“(e) article 12A;”;

(b) in paragraph (3)—

(i) in sub-paragraph (a), after “means” insert “any of the following relevant material originating in a third country, other than the European Union or Switzerland”;

(ii) after paragraph (a) insert—

“(aa) “exempt material” (*“deunydd esempt ”*) means

any small quantity of relevant material originating in the European Union or Switzerland, other than plants of *Castanea* Mill. intended for planting, plants of *Fraxinus* L. intended for planting or plants, other than seeds, of *Platanus* L. intended for planting;””.

(4) In regulation 27—

(a) in paragraph (a)—

- (i) in the substituted text of sub-paragraph (e) for “the United Kingdom” substitute “the United Kingdom or a CD territory”;
- (ii) in the substituted text of sub-paragraph (f), after “United Kingdom” insert “or a CD territory”;

(b) in paragraph (b)—

- (i) in the inserted text of paragraph (1B)(d), after “United Kingdom” insert “or a CD territory”;
- (ii) in the inserted text of paragraph (1B)(e), after “United Kingdom” insert “or a CD territory”.

(5) In regulation 28—

(a) in paragraph (b)—

- (i) in the substituted text of paragraph (1)(a), at the end insert “or a CD territory”;
- (ii) in the substituted text of paragraph (1)(b), for the words from “under article 12” substitute “on behalf of the Welsh Ministers under article 12(1) or by or on behalf of another appropriate UK plant health authority in an equivalent manner;”;

(iii) after the substituted text of paragraph (1)(b) insert—

“(c) in the case of any notifiable relevant material originating in the European Union or Switzerland which was brought into a point of entry in the United Kingdom, any relevant material specified in the list of controlled material which originates in the European Union or Switzerland and was notified to the Welsh Ministers in accordance with article 6(1), or to the appropriate UK plant health authority in accordance with equivalent requirements under the relevant Plant Health Order.”;

- (iv) in the substituted text of paragraph (2)(a), at the end insert “or a CD territory”;
- (v) for the substituted text of paragraph (2)(b) substitute—
 - “(b) any relevant material of a description specified in the list of pest free area controlled material in respect of the relevant UK pest free area that has been discharged on behalf of the Welsh Ministers under article 12(1) or by or on behalf of another appropriate UK plant health authority in an equivalent manner;
 - (c) in the case of any notifiable relevant material originating in the European Union or Switzerland which was brought into a point of entry in the United Kingdom, any relevant material specified in the list of pest free area controlled material in respect of the relevant UK pest free area which—
 - (i) originates in the European Union or Switzerland; and
 - (ii) was notified to the Welsh Ministers in accordance with article 6(1), or to the appropriate UK plant health authority in accordance with equivalent requirements under the relevant Plant Health Order.”;
- (vi) in the substituted text of paragraph (3)—
 - (aa) in the words before sub-paragraph (a), after “UK territory” insert “or a CD territory”;
 - (bb) at the end insert—
 - “(e) in the case of relevant material destined for a CD territory, any relevant material of a description specified for the purposes of this paragraph in the applicable plant health legislation of that CD territory”;
- (b) at the end insert—
 - “(g) after paragraph (10) insert—
 - “(11) In paragraphs (1) and (2), “relevant Plant Health Order” has the same meaning as in Part 2 (see article 3).”.

(6) In regulation 34 for paragraph (b) substitute—

“(b) in paragraph (4), for sub-paragraphs (a) and (b) substitute—

“(a) “professional operator” means any person who, in the course of a trade, business or profession, is involved in planting, breeding, producing, importing, marketing or distributing plants;

(aa) “specified details”, in relation to a lot, means its origin, consignor, consignee, place of destination, individual serial, week or batch number of the UK plant passport, identity and quantity;

(b) “*Xylella* specified plants” means plants specified in paragraph 13 of Part E of the list of regulated material which have been grown for a part of their life in, or have been moved through—

(i) an area demarcated under paragraph 5 of Schedule 15 to the Plant Health Regulations or, in relation to Scotland, under equivalent provisions in the Scotland Orders; or

(ii) a CD territory in which *Xylella fastidiosa* (Wells et al.) has been confirmed to be present;”;

(7) In regulation 42(b)(i), for “United Kingdom,” substitute “United Kingdom, a CD territory,”.

(8) In regulation 48(a), after sub-paragraph (i) insert—

“(ia) omit paragraphs (v) and (vi) of sub-paragraph (a);”.

(9) In regulation 51—

(a) in paragraph (d)(viii), for “the United Kingdom” substitute “the United Kingdom or a CD territory”;

(b) in paragraph (e), for the words in paragraph (i) substitute “for “elsewhere in the European Union” substitute “in another UK territory or a CD territory””;

(c) in paragraph (h), after the inserted text of paragraph 8(a) insert—

“(aa) in relation to fruit plant propagating material and fruit plants—

- (i) produced in England, in Part 2 of Schedule 2 to the Marketing of Fruit Plant and Propagating Material (England) Regulations 2017(1);
- (ii) produced in Wales, in Part 2 of Schedule 2 to the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017(2);
- (iii) produced in Scotland, in Part 2 of Schedule 5 to the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017(3);
- (iv) produced in Northern Ireland, in Part 2 of Schedule 2 to the Marketing of Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017(4);”.

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs,
one of the Welsh Ministers

Date

(1) S.I. 2017/595, amended by S.I. 2019/131.
(2) S.I. 2017/691 (W.163), to which there are amendments not relevant to these Regulations.
(3) S.S.I. 2017/177, to which there are amendments not relevant to these Regulations.
(4) S.R. 2017 No. 119, to which there are amendments not relevant to these Regulations.