



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Animal Health, Invasive Alien Species, Plant Breeders' Rights and Seeds (Amendment etc.) (EU Exit) Regulations 2019**

DATE **04 July 2019**

BY **Rebecca Evans AM, Minister for Finance and Trefnydd**

The Animal Health, Invasive Alien Species, Plant Breeders' Rights and Seeds (Amendment etc.) (EU Exit) Regulations 2019 ("the 2019 Regulations").

The Law which is being amended

- The Invasive Alien Species (Enforcement and Permitting) Order 2019.
- The Marketing of Vegetable Plant Material Regulations 1995.
- The Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment etc.) (EU Exit) Regulations 2019.
- The Wildlife and Countryside Act 1981.
- The Plant Breeders' Rights (Amendment etc.) (EU Exit) Regulations 2019.
- The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019.

The purpose of the amendments

Amendments to the legislation (listed above) make a number of technical changes and introduce some provisions on policies which were included in earlier EU exit SIs, ensuring all deficiencies have been fully addressed. It covers a number of policy areas including:

- Invasive Alien Species
- Plant varieties
- Marketing of seeds and plant material
- Animal disease control of Transmissible Spongiform Encephalopathies and Animal by-products

The Invasive Alien Species (Enforcement and Permitting) Order 2019

Part 2 amends The Invasive Alien Species (Enforcement and Permitting) Order 2019 ("the 2019 Order") in order to correct a small error in that Order.

An error was found in article 20 of the 2019 Order which requires rectification before the Order enters into force relating to the provisions setting maximum penalties upon criminal

convictions for an offence under the 2019 Order. The 2019 Regulations amend article 20, by substituting article 20(1), in order to address these errors. It ensures that the maximum custodial sentence on summary conviction is three months imprisonment, in accordance with Schedule 2 to the European Communities Act 1972, only increasing to six months in England and Wales at such time as paragraph 3 of Schedule 27 to the Criminal Justice Act 2003 enters into force.

Amendments were made to correct operability issues in Regulation (EU) No 1143/2014 through the Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2019 which were laid in Parliament in December 2018 and made in February 2019. When the Invasive Alien Species (Enforcement and Permitting) Order 2019 was made subsequently, it was drafted on the basis of the UK still being a Member State in order to fulfil obligations under Regulation (EU) No 1143/2014. Part 5 amends the 2019 Order in terms of deficiencies relating to references to the “list of species of Union concern” and the “Union List” instead of the “list of species of special concern”. A definition of the “list of species of special concern” has also been added. References to “member state” and the “Union” are being amended to the “United Kingdom”. References to the “competent authority” are being amended to the “appropriate authority” to ensure consistency between the 2019 Order and the Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2019.

The Marketing of Vegetable Plant Material Regulations 1995

Regulation 3 of the 2019 Regulations amends the Marketing of Vegetable Plant Material Regulations 1995 to provide that the Welsh Ministers may authorise the marketing of plant material from any country outside of the EU if satisfied the plant material has been produced under conditions equivalent to those required in domestic legislation. Regulation 9(2) of the 2019 Regulations amends the authorisation provision for the purposes of exit from the EU.

The Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment) (EU Exit) Regulations 2019

In the fields of Transmissible Spongiform Encephalopathies (TSEs) and Animal By-Products (ABPs), the 2019 Regulations will amend the Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment etc.) (EU Exit) Regulations 2019 (Part 4) to ensure that retained direct EU legislation will remain operable after the UK has left the EU.

The key changes within this SI, ensure that the law and disease controls applicable to TSEs and Animal By-Products function correctly after the UK has left the EU by including recent amendments to EU law which were not included in earlier EU exit legislation, e.g. last year’s amendment to Regulation (EC) No. 999/2001 Annex V that enables Member States to approve a different method to dentition for estimating whether a lamb is aged over twelve months for the purpose of removing the skull and spinal cord. This will allow the UK to introduce a date based system for estimating whether a lamb is aged over twelve months for the purpose of removing the skull and spinal cord for rendering and disposal as specified risk material.

There are also a number of technical/operability changes to ensure all deficiencies have been fully addressed. These include a requirement for pre-notification of imports of certain

higher risk animal by-products from the EU 27 to provide equivalent controls on traceability of consignments to those which apply for existing intra- community movements.

The Wildlife and Countryside Act 1981 (“the 1981 Act”)

The amendments to the 1981 Act (Part 5) correct cross-references to the “list of species Union concern” and the “Union list” to ensure consistency with Regulation (EU) No 1143/2014 (as amended) and the 2019 Order.

The Plant Breeders’ Rights (Amendment etc.) (EU Exit) Regulations 2019

Part 6 of the 2019 Regulations amends the Plant Breeders’ Rights (Amendment etc.) (EU Exit) Regulations 2019 to enable an application to be submitted for UK plant breeders’ rights after exit, which if made within 6 months of exit day will benefit from the application of regulations 11 to 13 of those Regulations, for applications made after that 6 month period the provisions of the Plants Varieties Act 1997 will apply. The 2019 Regulations also amend some cross references and will align terminology with the Trades Mark Act 1994.

The Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2019

Regulation 10 of the 2019 Regulations amends the Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2019 to revoke retained EU Decisions 2013/166, 2019/119 and 2019/120 which will be redundant upon exit.

The 2019 Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments are available here: <https://beta.parliament.uk/work-packages/BhGFI9yi>

Any impact the SI may have on the Welsh Ministers’ executive competence

Save for Regulation 3 of the 2019 Regulations which confers an administrative function on the Welsh Ministers without encumbrance, the 2019 Regulations do not impact on the Welsh Ministers ability to exercise functions in relation to Wales and this will continue without encumbrance.

Any impact the SI may have on the legislative competence of the National Assembly for Wales

The 2019 Regulations have no impact on the National Assembly for Wales’ legislative competence.

Why consent was given

As set out above, the 2019 Regulations make a number of technical changes and introduce some provisions on policies which were included in earlier EU exit SIs, ensuring all deficiencies have been fully addressed.

A Statutory Instrument Consent Memorandum has also been laid in the National Assembly in respect of the amendments to The Wildlife and Countryside Act 1981