

Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA/L/LG/05532-19 OCR SI

Elin Jones, AM
Llywydd
National Assembly for Wales
Cardiff Bay
CF99 1NA

22 January 2020

Dear Elin,

The Official Controls (Animals, Feed and Food, Plant Health Fees etc.) (Wales) Regulations 2020

In accordance with section 11A(4) of the Statutory Instruments Act 1946, as inserted by Sch.10 para 3 of the Government of Wales Act 2006, I am notifying you that this Statutory Instrument (SI) will come into force less than 21 days from the date of laying. The Explanatory Memoranda for these Regulations is attached for your information.

The Official Controls (Regulation (EU) 2017/625) ("Council Regulation") on official controls and other official activities came into force across the EU on 14 December 2019. The Regulation is part of the EU Smarter Rules for Safer Food (SRSF) package and is directly applicable. The detailed legal requirements of official controls are therefore set out in the Council Regulation and the Welsh Ministers' Regulations provide for domestic enforcement measures such as appointing enforcement bodies and competent authorities, and for

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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recovery of expenses, exchange of information, and for audits under the Council Regulation. They also make consequential amendments to a number of other statutory instruments.

The drafting of the Statutory Instrument has been delayed because important parts of it depended on the status of the United Kingdom, insofar as whether it was a Member State of the European Union on the coming into force date (14 December 2019) of the OCR. Certainty over this position was not forthcoming from UK Government and the European Union until very shortly before the 31 October. In addition the Council Regulation is very complex and supplemented by 28 items of tertiary legislation which set out important detailed aspects of official controls and other official activities. Drafting of the Welsh Ministers' Regulation has been completed as quickly as possible, the final item of tertiary legislation made under the Council Regulation was finalised on 12 December 2019.

As a result, there has been a delay between the date upon which the Council Regulation applied across the European Union, and the coming into force of these Regulations.

The potential impact of this delay is upon how breaches of legislation covered by official controls would be enforced. These Regulations provide an important practical enforcement tool in relation to the directly applicable requirements of the Council Regulation and the various EU and domestic legal instruments applicable across the policy areas under the control of official controls. Reducing the period of this enforcement gap will ensure consistency for operators and enforcement bodies across the UK. It is therefore essential that these Regulations are brought into force as soon as practicable, providing enforcement bodies with additional enforcement options and bringing Wales into line with the rest of the UK, as the other UK Administrations have already introduced their equivalent enforcement legislation.

For this reason, this Statutory Instrument is not able to be submitted for scrutiny in time to allow the period of 21 days.

Consultation has been carried out on the SI in accordance with Welsh Government guidelines and as required by European law, no responses were received which is not unexpected as the Regulations apply mostly to competent authorities. As detailed above similar Regulations have already been made in all other Administrations of the UK. A Regulatory Impact Assessment is attached.

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I am copying this letter to Mick Antoniw, Chair of the Constitutional and Legislative Affairs Committee and Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely,



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