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Finlay Carson MSP
Convener of the Rural Affairs, Islands and Natural
Environment Committee
c/o Clerk to the Committee
Room T3.40
The Scottish Parliament
EDINBURGH
EH99 1SP

8 September 2022

Dear Finlay,

THE AFRICAN SWINE FEVER (IMPORT CONTROLS) (ENGLAND AND SCOTLAND) ORDER 2022

I am writing to inform you that I have agreed to urgent legislation that was laid before the UK Parliament on 1 September 2022 to implement controls on the import of pork and pork products from EEA states (including the EU), the Faroe Islands, Greenland and Switzerland into Scotland and England, in order to mitigate the risk of African swine fever ('ASF') entering Great Britain. [The African Swine Fever \(Import Controls\) \(England and Scotland\) Order 2022](#) ('the SI') was subject to no procedure and was made on 31 August 2022 in exercise of the powers conferred by section 10 of the Animal Health Act 1981. The SI came into force on 1 September 2022.

Background

ASF is a contagious, notifiable, deadly, viral disease of pigs. There is no vaccine and disease may occur in, and spread between, domestic and feral pigs, and wild boar. A [preliminary outbreak assessment](#) on ASF in Europe was carried out by the Animal and Plant Health Agency on behalf of the Scottish Government and the other 3 UK administrations. The assessment concludes that none of the recent cases of ASF across Europe have arisen as a result of the movement of infected pigs or wild boar. Instead, the other likely pathways are human mediated transport of infected products or contaminated equipment/products.

Whilst the overall risk of entry of ASF virus into the UK from all combined pathways remains at medium, because of the regular detection of outbreaks and wild boar cases in new areas as a result of human-mediated routes, this particular pathway is now considered to be **HIGH** risk.

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Non-commercial imports (self-declared as personal or courier deliveries) of products of animal origin (PoAO) is the highest risk route of entry. The pre-existing animal health risk was due to be mitigated in July 2022 when the transitional staging period was scheduled to end and the remaining import controls on goods from the EU were due to be introduced; including Official Controls at the border for commercial POAO and the introduction of Personal Imports and Parcels policies. However, the UK Government's decision to further extend the transitional staging period and to delay the introduction of a new personal imports policy on PoAO from the EU and rest of the world, meant that passengers arriving in Great Britain from the EU were still able to bring in an unlimited quantity of PoAO for their own personal consumption or use. There is evidence that the lack of import controls is being exploited by people bringing large quantities of meat. This includes carcasses that do not appear to have been commercially packaged, from the EU into GB for unknown purposes.

In order to give Border Force the ability to seize these sort of high-risk EU consignments, I agreed to the introduction of legislation to strengthen the requirements for bringing pork products into Scotland and England from European Economic Area (EEA) states (including the EU), the Faroe Islands, Greenland and Switzerland, by no longer allowing visitors from these regions to bring more than 2kg of pork or pork products into Great Britain unless it has been produced to the EU's commercial standards and is intended only for personal consumption or use. The new requirements do not apply to commercial imports, which remain unaffected by the measure.

Legal basis

The power under section 10 of the Animal Health Act 1981 is conferred on "the Ministers". In relation to Scotland, this function was transferred to the Scottish Ministers by section 53 of the Scotland Act 1998. Notwithstanding this transfer, the Secretary of State retains power to exercise functions under section 10 of the 1981 Act by virtue of article 3(1) of, and Schedule 1 to, the Scotland Act 1998 (Concurrent Functions) Order 1999. Given the need to implement an agreed GB policy quickly in order to mitigate the risk of ASF entering the UK, I agreed to proceeding by way of UK SI as this would mean that there would only be one piece of legislation creating a consistent prohibition across both Scotland and England. As the policy intention was aligned across both administrations it was considered that creating a single piece of legislation would be more accessible for the public and for stakeholders, rather than both administrations producing separate instruments in order to achieve the same aim. Any delays in the laying and implementing of this policy in Scotland could have represented a serious risk of disease incursion.

We did not consider that the SI fell under any of the categories of instrument listed in paragraph 16 (a) to (d) of the Protocol between the Scottish Government and the Scottish Parliament for scrutinising proposals for UK statutory instruments relating to EU exit. The SI was made on an urgent basis and came into force the day after it was made in order to protect against the risk of incursion of ASF into Great Britain. Due to the degree of urgency it was not possible to discuss with the Parliament whether the protocol should apply to the powers in this legislation in terms of paragraph 16(e). We would be happy to discuss with the Parliament whether the Protocol should apply in future to the use of these powers.

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Due to time and resource constraints Welsh Government, whilst in support of the policy, have instead issued a temporary declaration of safeguarding measures by using powers under regulation 29 of the Trade in Animals and Related Products (Wales) Regulations 2011. The longer-term policy approach in Wales would be to introduce an equivalent Order by Welsh Ministers, implementing the same measures as the controls implemented by England and Scotland's Order.

Key Legislative changes

The primary purpose of this Order is to address the heightened ASF risk highlighted in the APHA assessment and provide for restrictions on the importation of "porcine products" into Scotland and England from "territories subject to special transitional import arrangements".

Yours sincerely,



MAIRI GOUGEON

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