

NOTIFICATION TO THE SCOTTISH PARLIAMENT

The Import of Animals and Animal Products and Approved Countries (EU Exit) (Amendment) Regulation 2022 (“the SI”)

Is the notification Type 1 or Type 2.

Type 1 notification.

A brief overview of the SI

The SI is to be made under section 8(1) and paragraphs 21 and 38 of schedule 7 of the European Union (Withdrawal) Act 2018. It amends several pieces of retained EU law to remedy deficiencies arising from the withdrawal of the United Kingdom from the European Union.

The instrument will enable the Secretary of State, with the consent of the appropriate authority (i.e. the Scottish Ministers in relation to Scotland and the Welsh Ministers in relation to Wales), to administratively prescribe certain conditions relating to the import into Great Britain of certain animals and animal products. Doing so will strengthen biosecurity by allowing a rapid response to changes in risk arising from imports of animals and animal products.

This SI is subject to affirmative procedure and will be laid in the UK Parliament on 30 March 2022. If approved by the UK Parliament, it will come into force on 1 April 2022.

Details of the provisions that Scottish Ministers are being asked to consent to

The SI amends several pieces of retained EU law which impose import conditions in respect of animals and animal products entering Great Britain, in particular rules that such imports are generally only permitted from specified countries (or parts thereof) and about other mandatory matters applicable to such imports which are listed in annexes to retained legislation (“third country lists”).

Prior to the UK’s withdrawal from the EU, the European Commission had delegated powers to amend the third country lists. This enabled changes to be made quickly and frequently by the European Commission through tertiary legislation, to reflect changes relevant to imports of animals or animal products which may present biosecurity or food safety risks (or equally to reflect changes to remove restrictions where risks diminished).

Amendments to address deficiencies in retained EU law relating to third country lists were made by S.I. 2019/1225, S.I. 2020/1462 and S.I. 2020/1481. These previous amendments included conferral of delegated powers on appropriate authorities (including the Scottish Ministers in relation to Scotland) to amend the third country lists by way of secondary legislation. The conferral of delegated powers on Scottish Ministers and other appropriate authorities does not, however, completely address the deficiencies arising from EU exit in that they are considered to be exercisable insufficiently quickly to respond to changes in risk in third countries that export

animals and animal products to Great Britain. In some instances, no delegated powers (legislative or otherwise) to amend import conditions in third country lists in relevant retained EU law were conferred on the Scottish Ministers and other appropriate authorities.

The relevant pieces of retained EU law are amended so that various import conditions are omitted from the annexes that comprise the third country lists. Powers are conferred on the Secretary of State to administratively determine, but only with the consent of the appropriate authorities (the Scottish Ministers and the Welsh Ministers), import conditions of the type that are to be omitted from the third country lists presently prescribed in retained EU law. This will allow the Secretary of State, with the consent of the Scottish Ministers and the Welsh Ministers, to respond quickly and effectively to changes in biosecurity risk presented by animals and animal products imported into Great Britain from approved third countries.

This instrument also makes consequential amendments which are needed to reflect the removal of import conditions from retained EU law and the conferral of the administrative powers on the Secretary of State. It also makes amendments to remove redundant references in footnotes in Annex 1 to retained Commission Decision 2006/168/EC and in Part 2, Annex 2, Commission Decision 2007/777/EC, which are no longer appropriate to retain.

Summary of the proposals

Where the SI confers on the Secretary of State the power to determine (with the consent of the appropriate authorities) import conditions, this typically includes the power to specify third countries, and the parts of third countries, in relation to which consignments may or must be authorised by the appropriate authority. The lists of third countries (and parts thereof) must be published by the Secretary of State.

A list of third countries in relation to which each such power may be exercised is prescribed in each relevant piece of retained EU law; the Secretary of State is not conferred with the power to administratively vary that list. This means that secondary legislation would be required to amend the lists of third countries specified in the relevant retained EU law. Amendment of the lists would be necessary in order to enable the Secretary of State through exercise of the administrative powers to permit importation of consignments from third countries not already on the list or to prohibit the Secretary of State from permitting, through exercise of the administrative powers, importation of consignments from the relevant third countries.

Powers are conferred on the Secretary of State, with the consent of the appropriate authorities, to administratively impose other conditions in relation to the importation of consignments. The pieces of retained EU that are amended by the SI are listed in the annex to this notification together with details of the relevant subject matter and powers that are conferred on the secretary of state by the SI to administratively specify, with the consent of the appropriate authority, conditions regarding the import of consignments into Great Britain.

Where powers are conferred on the Secretary of State, with consent of the appropriate authority, to administratively specify third countries (or parts thereof)

from which consignments may be imported or other import conditions, further provision is made regarding their exercise. The powers are exercisable only where it is necessary or appropriate to do so in the light of an assessment of the risk to either animal health in the UK or, in relation to most types of consignment, animal or human health in the UK. In some cases assessment of the risk to food safety is also relevant. Criteria and matters are specified that must be taken into account when assessing whether the exercise of the powers is necessary or appropriate.

Any assessment which is relied upon for the above purposes must have been approved by both the Secretary of State and the appropriate authorities (including the Scottish Ministers). Further provision is made to require the Secretary of State to have regard to any request by an appropriate authority to exercise one of the administrative powers regarding import conditions.

Does the SI relate to a common framework or other scheme?

No.

Summary of stakeholder engagement/consultation

The amendments made by this instrument are technical in nature and there are no substantial changes to policy, so no public consultation has been undertaken.

The UK Government has consulted with the Scottish Government, Welsh Government and the Food Standards Agency (together with Foods Standards Scotland) and all are in agreement that the amendments in this instrument are consistent with animal health and public health policy for the import of animals and animal products to Great Britain, and necessary in order to effectively carry out functions repatriated from the European Union.

A note of other impact assessments (if available)

This instrument will have a positive impact on any businesses that import animals and animal products from trading partners in third countries. It will ensure our certification requirements match the risk associated with imports, thereby protecting biosecurity and supply chains in Great Britain.

There is no, or no significant, impact on the public sector.

A full Impact Assessment has not been prepared for this instrument because this Instrument relates to the maintenance of existing regulatory standards.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

The SI will enable the Secretary of State, with Scottish Ministers' consent, to publish and amend equivalent information for approved trading partners administratively, rather than retaining them in legislation, so that they can be amended and improved quickly in the future. Doing so will allow rapid changes to be made to the law relating

to the import of animals and animal products in response to changing assessments about risk to biosecurity.

These amendments are required to allow the Secretary of State, with the consent of the Scottish Ministers and Welsh Ministers, to rapidly publish and amend GB import conditions for animals and animal products that may impact on UK public and animal health, such as following an overseas animal disease outbreak or food safety incident.

We are reassured that there are no powers of Scottish Ministers being diminished and, our policy interest is to move the lists into online publication (and administered centrally), with amendments made through the Animal Disease Policy Group (ADPG) as the decision-making body of the Common UK Animal Health and Welfare Framework.

By making exercise of the powers conferred on the Secretary of State conditional upon the consent of the Scottish Ministers, the amendments contained within the SI are appropriate and fully respect devolution.

Intended laying date (if known) of instruments likely to arise

This SI will be made and laid on 30 March 2022 and is intended to come into force on 1 April 2022.

If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?

This notification complies with the 28 day protocol.

Information about any time dependency associated with the proposal

None available

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

None.

Any significant financial implications?

Not applicable.

Annex

Retained EU law amended by the SI

Retained EU law	Commodities	Matters that may be specified administratively by the Secretary of State through powers inserted by the SI
Regulation (EC) No. 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies	live animal and products of animal origin	<p>No new administrative powers added into the legislation. The powers to administratively change the following matters (with consent) were conferred on the Secretary of State by S.S.I. 2019/588:</p> <ul style="list-style-type: none">• the BSE classification of a country or region,• the date from which the BSE classification for the country or region is to apply. <p>The powers are being amended to allow the Secretary of State (with consent) to decide these matters where there is no existing classification or date from which a classification is to apply.</p>
Commission Regulation (EC) No. 798/2008 laying down a list of third countries, territories, zones or compartments from which poultry and poultry products may be imported into and transit through the Community and the veterinary certification requirements	poultry and poultry products	<ul style="list-style-type: none">• A system of words, letters or numbers representing, for the purposes of a veterinary certificate under Commission Regulation (EC) No. 798/2008, a listed third country or a territory, zone or compartment of a listed third country.• Such listed third countries or territories, zones or compartments of those third countries from which the commodities may be imported into and transit through GB.• Closing dates and opening dates for imports of commodities.• Any of the listed additional guarantees that may be required.• Any of the listed specific conditions.• Conditions in relation to the approval of a salmonella control programme and related restrictions.• Indication of avian influenza (“AI”) surveillance programme. [Relevant because, where an AI surveillance programme is required in the certificate, commodities shall only be imported where the third country, territory, zone or compartment has had in place such an indicated AI surveillance programme for a period of at least 6 months.]• Indication of an AI vaccination plan. [Relevant because importation would otherwise be prohibited where vaccination against AI is carried out].

<p>Commission Regulation (EC) No. 119/2009 laying down lists of third countries or parts thereof, for imports into, or transit through, the Community of meat of wild leporidae, of certain wild land mammals and of farmed rabbits and the veterinary certification requirements</p>	<p>wild leporidae not containing offal, except for unskinned and uneviscerated wild leporidae; meat of wild land mammals other than ungulates and leporidae, not containing offal; meat of farmed rabbits (together "the relevant commodities")</p>	<ul style="list-style-type: none"> • Conditions on the import of the relevant commodities from a listed third country (or a part thereof). • A system of words, letters or numbers representing, for the purposes of a veterinary certificate under Commission Regulation (EC) No. 119/2009, a listed third country (or a part thereof). • Such listed third countries (or parts thereof) from which relevant commodities may be imported into, or transited through, GB.
<p>Commission Regulation (EU) No. 206/2010 laying down lists of third countries, territories or parts thereof authorised for the introduction into the European Union of certain animals and fresh meat and the veterinary certification requirements</p>	<p>ungulates; bees; meat</p>	<ul style="list-style-type: none"> • System of words, letters or numbers representing, for the purposes of a veterinary certificate, a listed third country or a part thereof. • Closing dates and opening dates in relation to a listed third country (or a part thereof) for consignments of meat from animals. • Any of the listed specific conditions on the introduction of ungulates into GB or on the importation of fresh meat intended for human consumption into GB. • Any of the listed conditions, on the import of ungulates into GB from a third country or a part thereof, in relation to which the person exporting the ungulate must provide evidence to show is satisfied by giving an additional guarantee. • Such listed third countries (or parts thereof) from which ungulates may be introduced from third countries into GB. • Such listed third countries or parts thereof from which consignments of ungulates of the species listed in Tables 1, 2 and 3 of Part 1 of Annex VI may be introduced if destined for an approved body, institute or centre. • Such listed third countries (or parts thereof) from which consignments of queen bees (<i>Apis mellifera</i> and <i>Bombus spp.</i>) and bumble bees (<i>Bombus spp.</i>) may be introduced into GB. • Such listed third countries and territories (or parts thereof), which are a geographically and epidemiologically isolated part of the third country or territory from which consignments of bees may be introduced into GB. • Such listed third countries (or parts thereof) from which consignments of fresh meat intended for human consumption may be imported into GB.

		<ul style="list-style-type: none"> Conditions on the import of any consignment of meat intended for human consumption from a listed third country in relation to which the person exporting the consignment must provide evidence are satisfied by giving an additional guarantee.
Commission Regulation (EU) No. 605/2010 laying down animal and public health and veterinary certification conditions for the introduction into the European Union of raw milk, dairy products, colostrum and colostrum-based products intended for human consumption	raw milk, dairy products, colostrum and colostrum-based products; from raw milk of cows, ewes, goats or buffaloes; dairy products derived from raw milk from camels of the species <i>Camelus dromedarius</i>	<ul style="list-style-type: none"> Such listed third countries (or parts thereof) in relation to which the appropriate authority shall authorise the importation of consignments of raw milk, dairy products, colostrum and colostrum-based products. Such listed third countries (or parts thereof) not at risk from foot at mouth in relation to which the appropriate authority shall authorise the importation of consignments of dairy products derived from raw milk of cows, ewes, goats or buffaloes. Such listed third countries (and parts thereof) (excluding the Emirates of Abu Dhabi and Dubai of the United Arab Emirates) in relation to which the appropriate authority shall authorise the importation of consignments of dairy products derived from raw milk of cows, ewes, goats or buffaloes. The dairy products derived from raw milk from camels of the species <i>Camelus dromedarius</i> from the Emirates of Abu Dhabi and Dubai of the United Arab Emirates in relation to which the appropriate authority shall authorise importation.
Commission Regulation (EU) No. 142/2011 implementing Regulation (EC) No. 2009/1069 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive		No new administrative powers added into this item of retained EU law. Commission Regulation (EU) No. 142/2011 is amended to refer to the administrative powers to be inserted into other items of retained EU law by the SI.

Commission Decision 2006/168/EC establishing the animal health and veterinary certification requirements for imports into the Community of bovine embryos		No new administrative powers added into this item of retained EU law. Change consequential to other amendments.
Commission Decision 2007/453/EC establishing the BSE status of Member States or third countries or regions thereof according to their BSE risk		No new administrative powers added into this item of retained EU law. Change consequential to other amendments.
Commission Decision 2007/777/EC laying down the animal and public health conditions and model certificates for imports of certain meat products and treated stomachs, bladders and intestines for human consumption from third countries	meat products and treated stomachs, bladders and intestines	<ul style="list-style-type: none"> • System of words, letters or numbers representing, for the purposes of a veterinary certificate, a listed third country or a part thereof. • Such listed third countries (or parts thereof) in relation to which the appropriate authority shall authorise imports of meat products and treated stomachs, bladders and intestines not subject to a specific treatment. • Such listed third countries (or parts thereof) in relation to which the appropriate authority shall authorise imports of meat products and treated stomachs, bladders and intestines that are subject to a specific treatment. • Such listed third countries (or parts thereof) from which consignments of meat products and treated stomachs, bladders and intestines which are destined for a third country either by transit immediately or following storage may be introduced provided they have undergone treatment stipulated in Commission Decision 2007/777/EC.
Commission Decision 2010/472/EU on imports of semen, ova and embryos of animals of the ovine and caprine species into the Union	semen, ova or embryos of the ovine or caprine species	<ul style="list-style-type: none"> • Such listed third countries (or parts thereof) from which imports of consignments of semen of animals of the ovine and caprine species must be authorised by the appropriate authority. • Such listed third countries (or parts thereof) from which imports of consignments ova and embryos of the ovine and caprine must be authorised by the appropriate authority. • Conditions on the import of consignments of semen, ova or embryos of the ovine or caprine species into Great Britain from a listed third country in relation to which the

		persons exporting the consignment must provide evidence are satisfied by giving an additional guarantee.
Commission Decision 2011/163/EU on the approval of plans submitted by third countries in accordance with Article 29 of Council Directive 96/23/EC	raw material imported from other third countries approved for production of food of animal origin in accordance with the Decision to be exported to GB	<ul style="list-style-type: none"> Such listed third countries which may submit plans provided for in Article 29 of Directive 96/23/EC or under the correlating provisions of, or under, Regulation (EU) 2017/625 to the appropriate authority. The animals and animal products in relation to which such plans are approved.
Commission Implementing Decision 2011/630/EU on imports into the Union of semen of domestic animals of the bovine species	semen of domestic animals of the bovine species ("semen")	<ul style="list-style-type: none"> Such listed third countries (or parts thereof) from which imports of consignments of semen shall be authorised by the appropriate authority if they meet certain conditions. Conditions on the import of consignments of semen into GB from listed third countries in relation to which the person exporting the consignment must provide evidence to show is satisfied by giving an additional guarantee.
Commission Implementing Decision 2012/137/EU on imports into the Union of semen of domestic animals of the porcine species	semen of domestic animals of the porcine species	<ul style="list-style-type: none"> Such listed third countries (or parts thereof) in relation to which the appropriate authority shall authorise the import consignments of semen of the porcine species provided that they complies with certain conditions. The third countries (or parts thereof) in relation to which the appropriate authority may authorise imports of semen from a semen collection centre.
Commission Implementing Regulation (EU) 2013/139 laying down animal health conditions for imports of certain birds into the Union and the quarantine conditions thereof	animals of the avian species other than those referred to in the second paragraph of Article 2	<p>No free standing powers to impose rules administratively are inserted into Commission Implementing Regulation (EU) 2013/139</p> <p>Commission Implementing Regulation (EU) 2013/139 is amended so that the countries and the regions of countries from which the import of certain birds may be authorised are as specified under Regulation 798/2008 (if the country has a particular type of designation in the table in annex 1 of Regulation 798/2008 that regulation) plus certain other countries listed in Commission Implementing Regulation (EU) 2013/139.</p>
Commission Implementing Regulation (EU) 2018/659 on the conditions for the entry into the Union of live equidae	equidae, semen of equidae and ova and embryos of equidae	<ul style="list-style-type: none"> A system of words, letters or numbers representing, for the purposes of an animal health or veterinary certificate under the Regulation, listed third countries (or parts thereof).

and of semen, ova and embryos of equidae		<ul style="list-style-type: none"> • Such listed third countries (or the parts thereof) from which imports of consignments of equidae shall be authorised by the appropriate authority. • Indication of the matters listed in paragraph 1(a) to (f) of Article 3 that are currently indicated in the table set out in Annex 1 of Commission Implementing Regulation (EU) 2018/659. • Specific conditions or temporal limitations in relation to which the competent authority of the third country of dispatch of equidae must apply measures to ensure compliance. • Such listed third countries (or parts thereof) from which consignments of semen of equidae shall be authorised by the appropriate authority to enter GB. • Such listed third countries (or parts thereof) from which consignments of ova and embryos of equidae shall be authorised by the appropriate authority to enter GB. • The supplementary guarantees or conditions which health certificates provided for in relation to entry into GB of equidae, semen of equidae and ova and embryos of equidae must be drawn up in accordance with.
Commission Implementing Regulation (EU) 2019/626 concerning lists of third countries or regions thereof authorised for the entry into the European Union of certain animals and goods intended for human consumption	gelatine and collagen derived from certain types of animals, intended for human consumption; raw materials for the production of gelatine and collagen derived from certain types of animal; treated raw materials for the production of gelatine and collagen derived from certain types of animal; honey and other apiculture products intended for human consumption	<p>No free standing powers to impose rules administratively is inserted into this Commission Implementing Regulation.</p> <p>Amendments made to import conditions reflect amendments to Commission Regulation (EC) No. 119/2009, Commission Regulation (EC) No. 798/2008 and Commission Decision 2011/163</p>