POLICY NOTE

THE ANIMAL PRODUCTS (TRANSITIONAL IMPORT CONDITIONS) (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2021

SSI 2021/432

The above instrument is made in exercise of the powers conferred by paragraphs 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018, paragraph 10A(1) of schedule 2 of the Trade in Animals and Related Products (Scotland) Regulations 2012 and all other powers enabling the Scottish Ministers to do so.

The instrument is subject to negative procedure.

Purpose of the instrument.

To allow import of meat preparations which have not been deep frozen from EEA states to continue from 1 January 2022 until 30 June 2022, in line with UK Government and Welsh Government.

These Regulations also remove the health certification requirements for animal products that would otherwise apply from 1 January 2022 by amending the Trade in Animals and Related Products (Scotland) Regulations 2012[1] and removes the requirement that, from 1 January 2022, a health certificate accompany products of animal origin and animal by-products.

Policy Objectives

These Regulations amend Commission Decision 2000/572/EC laying down the animal and public health and veterinary certification conditions for imports of meat preparations from third countries.

Commission Decision 2000/572 is retained direct minor EU legislation and contains import conditions, made under Article 8(4) of Council Directive 2002/99/EC, requiring imports of meat preparations from a third country to have been deep frozen at the plant of origin. The Animals, Food and Feed (EU Exit) (Scotland) (Amendment) Regulations 2020, originally made an amendment to Commission Decision 2000/572 meaning that fresh meat preparations would continue to be able to be imported from territories subject to transitional import arrangements until 1 April 2021. Countries subject to special transitional provisions include Members of the European Economic Area (EEA), the Faroe Islands, Greenland and Switzerland. Without this amendment all meat preparations from these specified territories would need to be frozen at the plant of origin prior to import.

Having regard to the animal health situation in those countries and territories, it was not considered necessary to impose that import condition and as such The Meat Preparations (Import Conditions) (Scotland) Amendment Regulations 2021[2] amended Commission

1 S.S.I 2012/177
2 S.S.I 2021/161

Decision 2000/572 to provide that the import condition that meat preparations have been deep frozen at the production plant or plants of origin were not to apply, until 30 September 2021, where the production plant or plants of origin are in one of those territories.

The derogation was further extended by The Meat Preparations (Import Conditions) (Scotland) Amendment (No. 2) Regulations 2021[3] which extended the deadline until 31 December 2021.

Having continued regard to the animal health situation in those countries and territories, these Regulations further extend the derogation, in order to permit the import of fresh meat preparations from those countries and territories to continue in Scotland from 1 January 2022 to 30 June 2022. Similar provision is being made by the UK and Welsh Government with respect to imports of fresh meat preparations into England and Wales.

These Regulations also remove the health certification requirements for animal products that would otherwise apply from 1 January 2022 by amending Trade in Animals and Related Products (Scotland) Regulations 2012 and removes the requirement that, from 1 January 2022, a health certificate accompany products of animal origin and animal by-products.

Explanation of the law being amended by the regulations

Article 4za of Commission Decision 2000/572/EC is a transitional modification, for imports from territories subject to special transitional import arrangements, of the requirement that meat preparations be deep-frozen at the plant of origin.

Paragraph 5 of schedule 5 of the Trade in Animals and Related Products (Scotland) Regulations 2012 makes provision regarding the conditions for importation of animals and related products from certain third countries during the transitional staging period provided for by Annex 6 to Regulation (EU) 2017/625 (EUR 2017/625).

Reasons for and effect of the proposed change or changes on retained EU law

Having continued regard to the animal health situation in countries and territories subject to special transitional import arrangements, regulation 2 further extends the transitional modification in Commission Decision 2000/572/EC, in order to permit the import of fresh meat preparations from those countries and territories to continue in Scotland from 1 January 2022 to 30 June 2022.

Regulation 3 amends paragraph 5 of schedule 5 of the Trade in Animals and Related Products (Scotland) Regulations 2012. It removes the requirement that, from 1 January 2022, a health certificate accompany products of animal origin and animal by-products. A similar change is being made in England and in Wales in line with the UK Government's new border operating model

Statements required by European Union (Withdrawal) Act 2018

The Regulations are made in exercise of the powers conferred by paragraphs 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018, paragraph 10A(1) of schedule 2 of the Trade in Animals and Related Products (Scotland)

3 S.S.I 2021/288

Regulations 2012. The statements below relate to regulation 3 in so far as it is made under the European Union (Withdrawal) Act 2018.

Statement that in their opinion Scottish Ministers consider that the regulations do no more than is appropriate

The Cabinet Secretary for Rural Affairs and Islands has made the following statement "In my view the Animal Products (Transitional Import Conditions) (Miscellaneous Amendment) (Scotland) Regulations 2021 do no more than is appropriate. This is the case because the Regulations make only minor necessary amendments to ensure the continuation of appropriate arrangements during the remainder of the transitional staging period.

Statement as to why the Scottish Ministers consider that there are good reasons for the regulations and that this is a reasonable course of action

The Cabinet Secretary for Rural Affairs and Islands has made the following statement "In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action. These are necessary to facilitate trade, and by aligning with the UK Government this will prevent confusion, disruption and the diversion of trade from existing points of entry into Great Britain. Having regard to the animal health situation in EEA member states, we consider that it is not necessary to impose this condition at this time.

Statement as to whether the SSI amends, repeals or revokes any provision of equalities legislation, and, if it does, an explanation of that amendment, repeal or revocation

The Cabinet Secretary for Rural Affairs and Islands has made the following statement "In my view the Animal Products (Transitional Import Conditions) (Miscellaneous Amendment) (Scotland) Regulations 2021 do not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts."

Statement that Scottish Ministers have, in preparing the regulations, had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010

The Cabinet Secretary for Rural Affairs and Islands has made the following statement "In my view the Animal Products (Transitional Import Conditions) (Miscellaneous Amendment) (Scotland) Regulations 2021 have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010."

Additional information provided for EU Exit instruments in terms of the protocol agreed between the Scottish Government and the Scottish Parliament

Statement that Scottish Ministers have, in preparing the regulations, had due regard to the guidance principles on the environment and animal welfare

The Cabinet Secretary for Rural Affairs and Islands made the following statement "In my view the Animal Products (Transitional Import Conditions) (Miscellaneous Amendment) (Scotland) Regulations 2021 have had due regard to the guiding principles on the

environment and animal welfare as derived from the equivalent principles provided for in Articles 13 and 191(2) in Titles II and XX respectively of the Treaty on the Functioning of the European Union."

Statement explaining the effect (if any) of the regulations on rights and duties relating to employment and health and safety and matters relating to consumer protection (so far as is within devolved competence)

The Cabinet Secretary for Rural Affairs and Islands has made the following statement, "In my view the Animal Products (Transitional Import Conditions) (Miscellaneous Amendment) (Scotland) Regulations 2021 do not alter current policy on rights and duties relating to employment and health and safety and matters relating to consumer protection (so far as is within devolved competence)".

An indication of how the regulations should be categorised in relation to the significance of the change proposed

Low - the amendments are solely to make relatively minor amendments to transitional import conditions

Statement setting out the Scottish Ministers' reasons for their choice of procedure

Negative procedure is considered appropriate as these Regulations make amendments to transitional arrangements. These Regulations do not include provisions which fall within paragraph 1(2) of schedule 7 of the European Union (Withdrawal) Act 2018.

Consultation

Scottish Government officials have been in discussions with the UK Government and Welsh Government on both the removal of the health certification requirements for animal products that would otherwise have applied from 1 January 2022 and on which a short consultation was held with industry stakeholders earlier this year. On the wider long-term position regarding all Prohibited & Restricted goods for imports, as well as those which apply to export, the policy decision was taken to extend the date of this derogation.

Impact Assessments

Full impact assessments have not been prepared for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. There is expected to be no impact on business, charities or voluntary bodies.

Financial Effects

The Cabinet Secretary for Rural Affairs and Islands confirms that no BRIA is necessary, as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Agriculture and Rural Economy Directorate
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