**EXPLANATORY MEMORANDUM TO**

**THE APPROVED COUNTRY LISTS (ANIMALS AND ANIMAL PRODUCTS) (AMENDMENT) (NO. 2) REGULATIONS 2021**

**2021 No. 1454**

## 1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Environment, Food & Rural Affairs ("Defra") and is laid before Parliament by Command of Her Majesty.

## 2. Purpose of the instrument

2.1 This instrument allows the import of poultry and poultry products to resume from Ukraine and Australia following the successful control of avian influenza outbreaks in those countries.

## 3. Matters of special interest to Parliament

3.1 This instrument will be laid on the 16th December 2021 and come into force the following day. As this instrument will be laid through the negative resolution procedure this will breach the 21-day rule.

3.2 The justification for this breach is that it is of considerable interest to GB businesses to reopen trade as quickly as possible, particularly with Ukraine. Breaching the 21-day rule will help alleviate supply chain issues relating to food and feed supplies and will relieve pressure on GB businesses that rely on poultry products from Ukraine.

3.3 Furthermore, in accordance with the UK-Ukraine Political, Free Trade and Strategic Partnership Agreement, GB importers pay a security to reserve an allocation of the annual poultry meat quota. As trade has been closed with Ukraine in 2021, importers have been unable to use their quota and risk losing their securities. Breaching the 21-day rule will give GB importers the opportunity to minimise losses related to retained securities.

3.4 The power to amend the entries of Ukraine and Australia in Annex I to Commission Regulation (EC) No 798/2008 can only be exercised following an assessment of the risks to animal or public health in line with regulation 7 of the Trade in Animals and Animal Products (Legislative Functions) and Veterinary Surgeons (Amendment) (EU Exit) Regulations 2019. It also requires the consent of the Scottish Government and Welsh Government.

3.5 An assessment of risk was completed in October 2021 which concluded that allowing imports of these products to resume would pose an acceptable level of risk to public and animal health in the UK. Scottish Government and Welsh Government formally endorsed the outcome of this assessment at the Animal Disease Policy Group on 26th October 2021. Since then, work has proceeded as quickly as possible to ensure this instrument is in force before the end of the year.

## 4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales, and Scotland.

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## 5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## 6. Legislative Context

6.1 This instrument makes amendments to Commission Regulation (EC) No 798/2008, which contains lists of third countries approved to import poultry and poultry products to GB.

6.2 The Trade in Animals and Animal Products (Legislative Functions) and Veterinary Surgeons (Amendment) (EU Exit) Regulations 2019 provides powers to add, remove or amend the third country lists, subject to an assessment by the Secretary of State of the risks to UK animal and public health. The subsequent assessment has concluded that allowing imports of poultry and poultry products to resume from Ukraine and Australia would pose an acceptable level of risk to animal and public health.

## 7. Policy background

***What is being done and why?***

7.1 Defra has received requests from Ukraine and Australia to lift existing import bans following the successful control of avian influenza in those countries.

7.2 An assessment of risk carried out by Defra and the Animal and Plant Health Agency, in consultation with Food Standards Agency, has concluded that allowing imports of products susceptible to avian influenza from these countries to resume would pose an acceptable level of risk to public and animal health in GB.

7.3 With regard to Ukraine, a significant amount of trade in poultry and poultry products has been suspended since December 2020 due to multiple outbreaks of avian influenza. Ukraine has since supplied Defra with sufficient information to provide confidence in its surveillance and disease outbreak controls. This allows the recognition of regionalisation for avian influenza, by controlling imports from the avian influenza affected regions of Ukraine while allowing trade to resume from outside those regions. The UK is required to recognise the regionalisation of Ukraine without undue delay under Article 62 of the UK-Ukraine Political, Free Trade and Strategic Partnership Agreement.

7.4 With regard to Australia, the instrument will include an opening date for exports to Great Britain, thereby recognising disease free status for the whole country for avian influenza following the effective control of outbreaks that occurred between July and August 2020.

## 8. European Union Withdrawal and Future Relationship

8.1 This instrument does not trigger the statement requirements under the European Union (Withdrawal) Act.

## 9. Consolidation

9.1 This is not a consolidation instrument.

## 10. Consultation outcome

10.1 Scottish Government and Welsh Government have been consulted about this instrument and are content that amending the entries for Ukraine and Australia in Annex I to Commission Regulation (EC) No 798/2008 is consistent with animal health and public health policy for the import of animals and animal products to Great Britain.

## 11. Guidance

11.1 As this instrument does not substantively change the process for importing poultry and poultry products from Ukraine and Australia to Great Britain, no guidance is necessary.

## 12. Impact

12.1 This instrument will have a positive impact on GB businesses that import poultry and poultry products from Ukraine and Australia. This includes providing GB businesses that have paid securities for allocations of poultry meat from Ukraine the opportunity to minimise losses.

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

12.3 An Impact Assessment has not been prepared for this instrument because no significant impact on the private or voluntary sector is foreseen.

## 13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

## 14. Monitoring & review

14.1 The approach to monitoring this legislation is through the course of normal departmental business, as no substantive changes to current procedures or standards for the export of poultry and poultry products from Ukraine and Australia are being introduced.

14.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Lord Benyon has made the following statement:

"There is no review clause because the entries in the lists included in the legislation being amended are kept under continual review, reflecting the changing disease status of the countries to which they relate."

## 15. Contact

15.1 Anthony Laing at the Department for Environment, Food and Rural Affairs email: Anthony.laing@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Paul Green, Deputy Director for the UK Office for Sanitary and Phytosanitary Trade Assurance, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Parliamentary Under Secretary of State for Rural Affairs and Biosecurity, Lord Benyon, at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.