EXPLANATORY MEMORANDUM TO

THE WINDSOR FRAMEWORK (RETAIL MOVEMENT SCHEME: PLANT AND ANIMAL HEALTH) (AMENDMENT ETC.) REGULATIONS 2024

2024 No. 853

1. Introduction

1.1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1. Baroness Hayman of Ullock, Parliamentary Under-Secretary of State at the Department for Environment, Food and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

2.2. John Gordon, Deputy Director for Northern Ireland Policy, at the Department for Environment, Food and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1. Alice King at the Department for Environment, Food and Rural Affairs, telephone: 07917 026861 or email: alice.king@defra.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1. The purpose of this instrument is to support trade between Great Britain ("GB") and Northern Ireland ("NI") whilst protecting the biosecurity and single epidemiological unit of the island of Ireland, following the agreement of the Windsor Framework between the United Kingdom (''UK'') and European Union (''EU''). To achieve this, the entry requirements for certain plant products and products of animal origin entering GB from outside the UK or EU will be adjusted to match the entry requirements for NI. This will facilitate the expansion of the list of rest-of-world goods that are eligible to move from GB to NI under the Northern Ireland Retail Movement Scheme ("NIRMS"). As a result, businesses will benefit from significantly reduced certification and checking requirements when moving these products from GB to NI via NIRMS.

Where does the legislation extend to, and apply?

4.2. The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England, Wales and Scotland.

4.3. The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, Wales and Scotland.

5. Policy Context

What is being done and why?

5.1. The arrangements for the Windsor Framework, including NIRMS, were announced by the UK Government and the EU on 27 February 2023.

5.2. Article 9 of Regulation (EU) 2023/1231 ("the SPS Regulation") provides a route for non-EU rest-of-world retail goods to become eligible to use NIRMS to move from GB into NI. This is subject to aligning with the import requirements and official controls for those goods as applies in NI, and being added to the list of rest-of-world goods authorised to move under NIRMS.

5.3. The scope of the NIRMS rest-of-world list is being expanded to cover a broader range of products. The additional products have been chosen based on demand from industry; where these goods are commonly used as ingredients in a wide range of products or are sold in significant quantities, and are therefore critical for maintaining choice for NI consumers.

5.4. This instrument adjusts the GB entry requirements for certain retail agri-food goods from non-EU third countries so that they match the entry requirements for those goods into NI. These goods will therefore be eligible to move as part of NIRMS, subject to being added to the list of products, and appropriate controls will be applied to reflect their risk profile.

What was the previous policy, how is this different?

5.5. Previously, the standard GB entry requirements applied to these goods, and so they were not eligible for movement to NI under NIRMS.

6. Legislative and Legal Context

How has the law changed?

6.1. The plant health provisions in Part 2 of this instrument introduce changes to the import criteria and requirements for specific cut herbs (basil) and cut flowers (carnations, roses, *Gypsophila, Chrysanthemum*) originating from non-EU third countries by amending certain assimilated EU legislation and secondary legislation.

6.2. The provisions amend the rules for checking plants entering GB. They change the frequency of identity and physical checks on plant consignments which are outlined in assimilated Official Controls Regulation (Regulation (EU) 2017/625) and the Official Controls (Plant Health) (Frequency of Checks) Regulations 2022 (SI 2022/739). The import requirements for cut roses from non-EU countries are also updated through amendments to the assimilated Phytosanitary Conditions Regulation (Commission Implementing Regulation (EU) 2019/2072). Existing measures against non-European isolates of the pest *Phytophthora ramorum* are expanded to include certain rose plants from Canada and Vietnam. In addition, existing measures against the pest *Thaumatotibia leucotreta* are extended to include cut roses.

6.3. The animal health provisions in Parts 3 and 4 of this instrument implement changes to import conditions and requirements for poultry meat products originating from China and Thailand. They do this by incorporating certain provisions from the EU Animal Health Law (Regulation (EU) 2016/429) ("the Animal Health Law") into the domestic law of GB, so that those provisions will apply when poultry meat products from Thailand and China enter GB. The incorporated provisions are: Article 229(1)(a), (c), (d) of the Animal Health Law, which provide for entry conditions regarding animal

health; and all other provisions of the Animal Health Law (and the implementing and delegated acts under the Animal Health Law) which relate to those entry conditions. No provisions primarily relating to public health or hygiene will be applied in GB.

6.4. The incorporated provisions are subject to certain modifications to ensure that they operate effectively in GB. For example, references to the Union are to be read as references to GB. The requirements regarding certificates are also modified so that the certificates used for the entry of Thai and Chinese poultry meat products are in a specific form which will be published by the competent authority.

6.5. The instrument also provides for an additional requirement for the approved establishment manufacturing poultry meat products in China and Thailand to be listed on the EU publicly available list where a product is required to undergo a risk-mitigating treatment. This means an establishment must be listed with both GB and the EU to export to GB where there is a specific risk-mitigating treatment applied, or only listed with GB when no specific risk-mitigating treatment is applied.

Why was this approach taken to change the law?

6.6. In order to amend the entry requirements for the relevant products in the necessary way to allow them to be added to the list of rest-of-world products, enabling them to move via NIRMS.

7. Consultation

Summary of consultation outcome and methodology

7.1. There has been no formal consultation on this instrument. The UK Government worked directly with industry to develop the list of goods to be added to the list of rest-of-world goods that are eligible to move from GB to NI under NIRMS.

7.2. This instrument concerns SPS (sanitary and phytosanitary) matters, which is a devolved matter in the UK. Therefore, the Department for Environment, Food and Rural Affairs has developed this instrument with the Scottish Government and Welsh Government and obtained the relevant legislative consent as per the commitment made by the UK Government during the passage of the European Union (Withdrawal) Act 2018.

8. Applicable Guidance

8.1. The Department for Environment, Food and Rural Affairs has, and continues to, publish guidance for schemes to be delivered as a result of the Windsor Framework. This can be found here.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1. A full Impact Assessment has not been prepared for this instrument because the average annual net costs to businesses from this instrument are below the de minimis threshold.

Impact on businesses, charities and voluntary bodies

9.2. There is no, or no significant, impact on business, charities or voluntary bodies. The arrangements that this legislation gives effect to have been sought by businesses

moving goods between GB and NI. Additionally, these costs are somewhat offset by streamlining access to the NI market via NIRMS.

9.3. The legislation does not impact small or micro businesses.

9.4. There is no significant impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1. No specific monitoring arrangements are needed.

10.2. As this instrument is made under the European Union (Withdrawal) Act 2018, no review clause is required.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1. None.

12. European Convention on Human Rights

12.1. As the instrument is subject to negative resolution procedure, no statement is required.

13. The Relevant European Union Acts

13.1. This instrument is not being made to address a deficiency in assimilated EU law. It relates to the withdrawal of the UK from the EU and is being made under section 8C of the European Union (Withdrawal) Act 2018. This instrument relates to the implementation of the Windsor Framework, as agreed between the UK and the EU on 27 February 2023.