

NOTIFICATION TO THE SCOTTISH PARLIAMENT

The Approved Country Lists (Animals and Animal Products) (Amendment) (No. 2) Regulations 2021

Is the notification Type 1 or Type 2.

Type 1 notification.

A brief overview of the SI

- This proposed instrument amends restrictions on the import of certain categories of poultry and poultry products from Australia and Ukraine contained in Commission Regulation (EC) No 798/2008 following the successful control of avian influenza outbreaks in those countries.
- The amendments will allow listed categories of poultry and poultry products produced after a certain date to be imported into Great Britain from Australia.
- The amendments will also ensure that imports of listed categories of poultry and poultry products from regions of Ukraine that have been affected by avian influenza outbreaks will be controlled, whilst imports from unaffected areas will be able to resume.
- It will use powers in the Trade in Animals and Animal Products (Legislative Functions) and Veterinary Surgeons (Amendment) (EU Exit) Regulations 2019 (SI 2019/1225) to amend the Ukraine and Australia's entries in the list of third countries approved to import these products to Great Britain, as set out in Annex I to Commission Regulation (EC) No 798/2008.
- The proposed instrument is expected to be laid before the UK Parliament on 16 December 2021 and come into force on 17 December 2021.

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

The SI is made in exercise of powers conferred by regulation 7 of the Trade in Animals and Animal Products (Legislative Functions) and Veterinary Surgeons (Amendment) (EU Exit) Regulations 2019 ("the 2019 Regulations"). The power is exercisable by the Secretary of State with the consent of the "appropriate authority", which is the Scottish Ministers in relation to Scotland. The SI will amend the table in Annex 1 to Commission Regulation (EC) No 798/2008, which lays down a list of third countries, territories, zones or compartments from which poultry and poultry products may be imported into Great Britain.

Imports from Australia

An “opening date” will be inserted to the entry in Annex I corresponding to Australia in relation to certain types of poultry and poultry products. The effect of the opening date is that specified types of poultry and poultry products produced after that date may be imported into Great Britain from Australia.

Imports from Ukraine

The SI will amend existing entries in Annex I corresponding to the import of poultry meat, the meat of farmed raptines for human consumption and wild game-bird meat from a particular region of Ukraine (identified in Annex I as “UA-2.4”) by inserting an “opening date” to those entries.

New entries will also be added to Annex I in respect of the import of poultry meat, the meat of farmed raptines for human consumption and wild game-bird meat from defined regions of Ukraine, including “closing dates” and “opening dates” for the import of those products as appropriate.

These amendments will mean that imports of the listed products from regions of Ukraine that have been affected by avian influenza outbreaks will be appropriately controlled, whilst also allowing imports from unaffected areas of Ukraine to resume.

Summary of the proposals

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

The 2019 Regulations provide powers to add, remove or amend an entry in the third country lists, where the amendment is necessary or appropriate in light of an assessment of the risks to UK animal or public health. In order to exercise these powers the Secretary of State requires the consent of Scottish and Welsh Ministers in relation to Scotland and Wales respectively.

An assessment of the risk to animal or public health in the United Kingdom arising in respect of live poultry, hatching eggs (including specified pathogen-free eggs), day-old chicks and poultry products has been approved by the Scottish Ministers, the Welsh Ministers and the Secretary of State in accordance with regulation 7 of the 2019 Regulations, taking into account the animal health criteria, the public health criteria and the matters specified in regulation 7(2).

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

No

Summary of stakeholder engagement/consultation

Stakeholders have not been consulted.

The Scottish Government is in regular contact and communication with Defra and other devolved administrations and this instrument has been developed in collaboration with Devolved Administration officials.

A note of other impact assessments, (if available)

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

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

An explanation of why the change is considered necessary

Animals and animal products can only be imported to Great Britain from approved countries listed in legislation. For poultry and poultry products, these are listed in Annex I to Commission Regulation (EC) No 798/2008, which also sets out restrictions in place due to disease outbreaks.

The UK Office for Sanitary and Phytosanitary Trade Assurance (UK Office) has received requests from Ukraine and Australia to amend the current restrictions on imports of poultry and poultry products following the successful control of avian influenza in those countries.

An assessment of risk to animal or public health has been carried out by the UK Office 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 the United Kingdom. The risk assessment has been approved by the Scottish Ministers and they are satisfied that the proposed amendments are necessary or appropriate in light of the assessment.

With regard to Ukraine, the restrictions currently imposed by Annex I of Commission Regulation (EC) No 798/2008 and the required veterinary certificates mean that a significant amount of trade in poultry and poultry products has in effect been suspended since December 2020 due to multiple outbreaks of avian influenza. Ukraine has since supplied the UK Office for Sanitary and Phytosanitary Trade Assurance with sufficient information to provide confidence in their 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 zones. The UK is obligated to recognise the regionalisation of Ukraine without undue delay under Article 62 of the UK-Ukraine Political, Free Trade and Strategic Partnership Agreement.

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.

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

The Scottish Ministers have approved the assessment of risk to animal or public health and are satisfied that the proposed amendments are necessary or appropriate in light of the assessment.

The Scottish Ministers believe that the changes to be made by this proposed instrument are necessary to allow trade in poultry and poultry products to resume from the Ukraine and Australia and to ensure imports from the avian influenza affected regions of Ukraine are controlled. The Scottish Ministers also believe that delays in implementation risk impacting trade relations with Ukraine, Australia and Great Britain importers.

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

Laying Date	Ref:	Description:
16/12/2021	Defra/AH/062	The Approved Country Lists (Animals and Animal Products) (Amendment) (No. 2) Regulations 2021

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

Whilst the Devolved Administrations have been in close consultation with Defra on this SI, an initial draft of the SI has only been shared in recent days and it is therefore regrettable that on this occasion it has not been possible to comply with the requirement that members should have a full 28 days to scrutinise before the instrument is laid. This proposed instrument has been drawn up urgently to allow the import of poultry and poultry products to resume from Ukraine and Australia respectively and to ensure imports from the avian influenza affected regions of Ukraine are controlled.

The proposed laying date for the instrument is 16 December. This instrument must come into force as soon as possible as delays in implementation risk impacting on trade relations with Ukraine and Australia and it is of considerable interest to UK businesses to re-open imports of poultry and poultry products as soon as possible, particularly from Ukraine.

Information about any time dependency associated with the proposal

Whilst the Devolved Administrations have been in close consultation with Defra on this SI, an initial draft of the SI has only been shared recently and it is therefore regrettable that on this occasion it has not been possible to comply with the requirement that members should have a full 28 days to scrutinise before the instrument is laid.

In order to minimise the impact on GB traders and trade relationships with the Ukraine and Australia it is vital that the proposed amendments are implemented as soon as possible.

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

No

XX December 2021