

## NOTIFICATION TO THE SCOTTISH PARLIAMENT

### The Official Controls (Extension of Transitional Periods) (Amendment) (No. 2) Regulations 2021

Is the notification Type 1 or Type 2.

Type 1 notification.

#### **A brief overview of the SI (including reserved provision)**

The purpose of this instrument is to protect biosecurity and support trade by ensuring that within Great Britain, and between Great Britain and 'relevant third countries' as defined in Annex 6 to Regulation (EU) 2017/625 ("the Official Controls Regulation"), effective official border controls continue to operate following the end of the Transition Period.

The changes made by this instrument relate to controls on imports to Great Britain for the set of commodities known collectively as Sanitary/Phytosanitary measures (SPS) goods. This instrument replaces the dates for the ending of the transitional staging period (TSP), as set out in the Official Controls (Extension of Transitional Periods) Regulations 2021<sup>1</sup> with a single date – 30 June 2022 – so that the Official Controls Regulation will apply fully to all SPS goods from 1 July 2022.

In addition to changing the date of the TSP, the instrument makes consequential changes to the Meat Preparations (Amendment and Transitory Modification) (England) (EU Exit) Regulations 2020<sup>2</sup>, the Plant Health etc. (Fees) (England) Regulations 2018<sup>3</sup> and the Trade in Animals and Related Products Regulations 2011<sup>4</sup>. The amendments to these instruments apply in England only and do not extend to Scotland.

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

This instrument replaces the dates for the ending of the transitional staging period, as set out in the Official Controls (Extension of Transitional Periods) Regulations 2021 with a single date – 30 June 2022 – so that the Official Controls Regulation will apply fully to all SPS goods starting from 1 July 2022. Further legislation is planned in early 2022 to set out specific requirements applying from 1 July 2022.

The instrument makes a further consequential amendment to regulation 52 of the Plant Health (Amendment etc.) (EU Exit) Regulations 2020<sup>5</sup>, to provide for the changes to these dates to be reflected in related provisions.

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<sup>1</sup> S.I. 2021/809

<sup>2</sup> S.I. 2020/1666

<sup>3</sup> S.I. 2018/289

<sup>4</sup> S.I. 2011/1197

<sup>5</sup> S.I. 2020/1482

## Summary of the proposals

The EU (Withdrawal) Act 2018 (EUWA) converted and preserved EU law at the end of the Transition Period into domestic law (retained EU law). It also provided for amendments to be made to address deficiencies arising from EU exit.

Those amendments included the introduction of a ‘transitional staging period’ for goods entering Great Britain from the EU and certain other countries. Provision was made for the end dates of those transitional periods to be changed by statutory instrument, and this instrument is made in exercise of those powers, namely Article 144(6) of, and paragraph 2 of Annex 6 to, the Official Controls Regulation.

Statutory instruments made and brought into force in late 2020 gave effect to the UK Government’s decision to introduce checks on EU SPS imports in phases, following the end of the Transition Period on 31 December 2020. These included amendments to regulations governing Official Controls, and Trade in Animals and Related Products, which required pre-notification, health certification and documentary checks on imports of EU Products of Animal Origin (“POAO”) and Animal By-Products (“ABP”) to be in force from 1 October 2021. These dates have been amended previously by the Trade and Official Controls (Transitional Arrangements for Prior Notifications) (Amendment) Regulations 2021<sup>6</sup>, the Official Controls (Extension of Transitional Periods) Regulations 2021<sup>7</sup>, the Official Controls (Extension of Transitional Periods) (England and Wales) (Amendment) Regulations 2021<sup>8</sup>, the Official Controls (Transitional Staging Period) (Miscellaneous Amendments) (Scotland) Regulations 2021<sup>9</sup> and the Official Controls (Transitional Staging Period) (Miscellaneous Amendments) (Scotland) (No. 2) Regulations 2021<sup>10</sup>.

On 14 September 2021, the UK Government announced its decision to revise the current timetable for the introduction of all remaining checks. Without this instrument, from 1 January 2022, businesses in GB importing high-priority plants and plant products from the EU and EU businesses exporting to Great Britain would be subject to documentary checks, and imports of POAO and ABPs in England and Wales would be subject to identity and physical checks. All SPS goods from relevant third countries would require to enter via, and be subject to official controls at, Border Control Posts from 1 March 2022. Phytosanitary certificates would also be required for all regulated plants and plant products from 1 January 2022.

This instrument therefore enables the continued functioning of SPS controls between the EU and Great Britain and the EU following the end of the transitional staging period. **The end of the transitional staging period is amended to 30 June 2022, after which full Official Controls Regulation checks will apply to SPS goods entering GB from the EU.**

This new Statutory Instrument will provide for OCR checks currently scheduled to come into force in January and March 2022, to be introduced from 1 July 2022. In particular, this proposed legislation:

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<sup>6</sup> S.I. 2021/429

<sup>7</sup> S.I. 2021/809

<sup>8</sup> S.I. 2021/1096

<sup>9</sup> S.S.I. 2021/297

<sup>10</sup> S.S.I. 2021/342

- Replaces the current dates for introduction of the remaining OCR checks with a single date (30 June 2022), so that the default OCR regime begins to apply to all EU SPS imports from 1 July 2022. Further details on the 2022 imports controls regime were published on 18 November 2021 and can be found [here](#) (it is anticipated that further legislation will be needed next year to reflect the phasing outlined in this regime).
- Amends regulation 52 of the Plant Health (Amendment etc.) (EU Exit) Regulations 2020, to bring the date that applies to a transitional provision for certain plants, plant products and other objects into line with the revised TSP. In regards to the provision these amendments delay the PC requirement for non-high priority plants to the end of the TSP, until 1 July 2022. Regulation 52 has previously been amended by the Trade and Official Controls (Transitional Arrangements for Prior Notifications) (Amendment) Regulations 2021<sup>11</sup> and the Animal Health, Plant Health, Seeds and Seed Potatoes (Miscellaneous Amendments) Regulation 2021<sup>12</sup>.
- Amends the Plant Health etc. (Fees) (England) Regulations 2018 (S.I. 2018/289), to align the timing of the imposition of certain fees with the extended TSP. (England only and equivalent changes are not required to the Plant Health (Import Inspection Fees) (Scotland) Regulations 2014<sup>13</sup>)
- Amends the Meat Preparations (Amendment and Transitory Modification) (England) (EU Exit) Regulations 2020, to extend the temporary suspension of the requirement for meat preparations imported into England from EEA member States, the Faroe Islands, Greenland or Switzerland, to be deep frozen, bringing it into line with the extended TSP. England only. The Scottish Government made on 25 November 2021 the following instrument The Animal Products (Transitional Import Conditions) (Miscellaneous Amendment) (Scotland) Regulations 2021 making similar provision and the Welsh Government will be legislating likewise separately.

The territorial extent of this instrument is Great Britain.

The territorial application of this instrument is Great Britain.

None of the amendments made by the instrument confer powers to make legislation on UK or Scottish Ministers.

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

No.

### **Summary of stakeholder engagement/consultation**

Under the enabling powers for this SI, consultation is required before making new Regulations. The Secretary of State must consult such bodies or persons as appear to the Secretary of State to be representative of the interests likely to be substantially affected by these regulations. In order to meet these requirements, we understand

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<sup>11</sup> S.I. 2021/429

<sup>12</sup> S.I. 2021/1229

<sup>13</sup> S.S.I. 2014/338

that stakeholders including Port Health Authorities, the Animal and Plant Health Authority, and other plant health stakeholders were consulted. Respondents to the consultation were supportive of this instrument.

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.

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

It is essential that this instrument is in force to ensure that legislation is operable to enable the continued administration and regulation of the GB-wide official controls regime.

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

This SI will be made and around 8 December 2021 and come into force on 31 December.

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

The protocol with the Scottish Parliament does provide for urgent or immediate cases. It is important that the changes to the TPS comes into effect by the 31 December and 8 December is the last cut off date to make this happen, and it was on this basis that the SI was considered urgent. Whilst the Devolved Administrations have been in close consultation with Defra on this SI, a final 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.

### **Information about any time dependency associated with the proposal**

The policy which is adopted under this instrument will be monitored and assessed on an ongoing basis and amended if necessary.

### **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.

**NOTIFICATION TO THE SCOTTISH PARLIAMENT  
SI NOTIFICATION: SUMMARY**

<p><b>Title of Instrument</b></p> <p>The Official Controls (Extension of Transitional Periods) (Amendment) (No. 2) Regulations 2021</p>
<p><b>Proposed laying date at Westminster</b></p> <p>Around 8 December 2021</p>
<p><b>Date by which Committee has been asked to respond</b></p> <p>31 December 2021</p>
<p><b>Power(s) under which SI is to be made</b></p> <p>The EU (Withdrawal) Act 2018 (EUWA) converted and preserved EU law at the end of the Transition Period into domestic law (retained EU law). It also provided for amendments to be made to address deficiencies arising from EU exit.</p> <p>Those amendments included the introduction of a ‘transitional staging period’ (TSP) for goods entering Great Britain from the EU and certain other countries. Provision was made for the end dates of those transitional periods to be changed by statutory instrument, and this instrument is made in exercise of those powers, namely Article 144(6) of, and paragraph 2 of Annex 6 to, the Official Controls Regulation (Regulation (EU) 2017/625).</p> <p>The SI is also to be made under paragraph 11A(1) of schedule 2 of the Trade in Animals and Related Products Regulations 2011. That power, and the provision made under that power, extends to England only.</p>
<p><b>Categorisation under SI Protocol</b></p> <p>Type 1</p>
<p><b>Purpose</b></p> <p>This new Statutory Instrument will provide for OCR checks currently scheduled to come into force in January and March 2022, to be introduced from 1 July 2022. In particular, this proposed legislation:</p> <ul style="list-style-type: none"> <li>• Replaces the current dates for introduction of the remaining OCR checks with a single date (30 June 2022), so that the default OCR regime begins to apply to all EU SPS imports from 1 July 2022. Further details on the 2022 imports controls regime were published on 18 November 2021 by the UK Government and it is anticipated that further legislation will be needed next year to reflect the phasing outlined in this regime.</li> <li>• Amends regulation 52 of the Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1482), to bring the date that applies to a transitional provision relating to the requirement for certain plants, plant products and other objects to have a phytosanitary certificate (PC) for entry to GB into line with the revised TSP.. In regards to the provision this amendment delays the PC requirement for non-high priority plants to the end of the TSP, until 1 July 2022.</li> <li>• Amends the Plant Health etc. (Fees) (England) Regulations 2018 (S.I. 2018/289), to align the timing of the imposition of certain fees with the extended TSP. (England only and equivalent changes are not required to the Plant Health (Import Inspection Fees) (Scotland) Regulations 2014).</li> </ul>

- Amends the Meat Preparations (Amendment and Transitory Modification) (England) (EU Exit) Regulations 2020<sup>14</sup>, to extend the temporary suspension of the requirement for meat preparations imported into England from EEA member States, the Faroe Islands, Greenland or Switzerland, to be deep frozen, bringing it into line with the extended TSP. England only. The Scottish Government made on 25 November 2021 the following instrument The Animal Products (Transitional Import Conditions) (Miscellaneous Amendment) (Scotland) Regulations 2021 making similar provision and the Welsh Government will be legislating likewise separately.

### **Other information**

On 14 September 2021, the UK Government announced its decision to revise the current timetable for the introduction of all remaining checks. Without this instrument, from 1 January 2022, businesses in GB importing high-priority plants and plant products from the EU and EU businesses exporting to Great Britain will be subject to documentary checks, with and imports of animal products into England and Wales would be subject to identity and physical . All animals, animal products, plants and plant products would require to enter via, and by subject to official controls ] at, Border Control Posts from 1 March 2022. Phytosanitary certificates would also be required for all regulated plants and plant products from 1 January 2022.

This instrument therefore enables the continued functioning of SPS controls between the EU and Great Britain and the EU following the end of the transitional staging period. **The end of the transitional staging period is amended to 30 June 2022, after which full Official Controls Regulation checks will apply to SPS goods entering GB from the EU.**

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<sup>14</sup> S.I. 2020/1666