

## **NOTIFICATION TO THE SCOTTISH PARLIAMENT**

### **PH/011 – The Trade and Official Controls (Transitional Arrangements for Prior Notifications (Amendment) Regulations 2021**

#### **Is the notification Type 1 or Type 2**

Type 1

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

The instrument was previously named The Plant Health (Amendment etc.) (EU Exit) (Amendment) Regulations 2021 using the European Union (Withdrawal) Act 2018 to change the date of a transitional provision (from 31 March to 31 December 2021) as contained at regulation 52 of the Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (PH/05). The Scottish Parliament previously consented to the plant health transitional date being amended from 31 March 2021 to 31 December 2021 on 17 March 2021<sup>1</sup>.

Due to time constraints, the scope of the instrument has been widened and was subsequently used to include amendments to:

- The Trade in Animals and Related Products Regulations in England, and Scotland respectively; and
- The Official Controls Regulation (EU) 2017/625 (EUR 2017/625).

This notification therefore outlines these subsequent changes to PH/011.

Statutory Instruments made and brought into force in late 2020, under powers conferred by the European Union (Withdrawal) Act 2018, gave effect to the decision to introduce sanitary and phytosanitary checks on imports of products of animal origin for human consumption from EEA states, and plants, plant products and other objects in phases to commence following the end of the Transition Period on 31 December 2020. These included amendments to the Official Controls Regulation made by the SI the Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) Regulations 2020 to introduce a new Annex 6 to the Official Controls Regulation. Amendments were also made to the Trade in Animals and Related Products (Scotland) Regulations 2012. The amendments included provisions to introduce a first tranche of prior notification and certification requirements for some specific plants and animal product commodities, commencing 1 April 2021.

In addition to the plant health provisions previously notified to the Scottish Parliament, this instrument now adjust the dates from which pre-notification of certain plants, plant products and other objects, and pre-notification and health certificates, are required for products of animals origin for human consumption in both the (GB-wide) Official Controls Regulation and in the instruments which give

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<sup>1</sup> [Official Report \(parliament.scot\)](https://www.parliament.scot/Official-Reports/2021/20210317)

further effect to it including the Trade in Animals and Related Products (Scotland) Regulations 2012 (and the equivalent legislation in England and in Wales), from the 1 April 2021 to 31 July 2021.

This instrument will be laid in the UK Parliament on 31 March and come into force on the same day.

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

In addition to the amendment to the Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1482), which has already been consented to, Scottish Ministers are being asked to consent to:

- An amendment to paragraph 13 of Annex 6 to the Official Controls Regulation which changes the date from 1 April 2021 to 31 July 2021 from when there will be a requirement to give prior notification of the arrival of imports from the EU of—
  - (a) all products of animal origin intended for human consumption;
  - (b) all plants, plant products and other objects of a description specified in any entry in columns 1 and 2 of the table in Part A of Annex 11 to Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants, which originate in any third country listed in the corresponding entry in column 3 of that table.
- Amendments to paragraphs 4 and 5 of schedule 5 of the Trade in Animals and Related Products (Scotland) Regulations 2012, to change the date from which prior notification and health certification requirements for products of animal origin apply, from 1 April 2021 to 31 July 2021.

### **Summary of the proposals**

The additional provisions in the instrument will change the date from which transitional prior notification for products of animal origin and prescribed types of plant and plant products apply from 1 April 2021 to 31 July 2021, and change the date from which transitional sanitary certification requirements for products of animal origin apply from 1 April 2021 to 31 July 2021 also

These changes will ensure that transitional provisions relating to the phased introduction of import border controls processes continue to be operable during and after the protracted period during which businesses and border operations continue to be adversely affected by the coronavirus pandemic.

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

No.

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

We understand that there has been no formal stakeholder consultation but Defra has stated that based on industry feedback since 1 January 2021 it is expected that these amendments will be received positively. There are no policy changes and the instrument represents an extension of a previously introduced transitional provision.

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.

The amendments in this instrument reflect the consequence of the UK leaving the EU and results in the EU becoming a third country for SPS purposes.

As the EU became a third country at the end of the Transition Period, regulated EU commodities imported to GB will be subject to standard third country controls. These direct impacts on businesses and the public sector do not reflect any change in GB SPS policy, therefore an impact assessment has not been prepared for this instrument.

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

Scottish Ministers consider that consenting to the SI is the most effective, pragmatic and transparent way to make the proposed changes.

The Scottish Government was informed of the UK Government's changes to the import phases for EU goods as outlined in the published Border Operating Model on 11 March with the justification being as a result of Covid, business readiness and the need for businesses to focus on economic recovery.

If the timetable in Scotland is not amended our ports and local authorities will be disadvantaged and lose preparation time. This is likely to cause confusion and disruption to trade. Different requirements in different nations will lead to stakeholder confusion and a likely diversion of trade that would usually come directly to Scotland in order to avoid certification requirements and border control post checks and fees. On balance therefore Scottish Ministers have accepted the need to adopt the new timetable for phases.

The original amending Regulations must therefore now be corrected, to properly enable them to give effect to the introduction of import controls for EU SPS goods as originally intended. This extension will allow businesses to familiarise themselves

with the new SPS compliance requirements and IT systems, and enable workable migration from current systems. It will ensure that necessary infrastructure and processes are in place at Border Control Points, further minimising the risk of any disruption.

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

This SI will be laid on 31 March 2021.

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

The Scottish Government was only informed of the instrument's necessity following on from the UK Government's announcement of 11 March 2021 on changes to the import phases for EU goods outlined in the published Border Operating Model (BOM). It was therefore regrettable that compliance with the 28 days' scrutiny period was not possible on this occasion given that the instrument is to be laid at Westminster on 30 March, and when the fifth session of the Scottish Parliament had been dissolved as of 25 March 2021.

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

Not applicable.

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

Not applicable.

**Any significant financial implications?**

Not applicable.

## SI NOTIFICATION: SUMMARY

<b>Title of Instrument</b> The Trade and Official Controls (Transitional Arrangements for Prior Notifications) (Amendment) Regulations 2021
<b>Proposed laying date at Westminster</b> Made: 30 March 2021 Laid before UK Parliament: 31 March 2021 Coming into force: 31 March 2021
<b>Date by which Committee has been asked to respond</b> N/A
<b>Power(s) under which SI is to be made</b> These Regulations are made in exercise of powers conferred by section 8(1), and paragraph 21 of schedule 7 to, the European Union (Withdrawal) Act 2018.
<b>Categorisation under SI Protocol</b> Type 1
<b>Purpose</b> <p>The purpose of this instrument is to make provision about the transitional introduction of border controls on imports to Great Britain from the EU (and certain other countries and territories) of animals and animal products, plants and plant products, including food and other imports relevant to the agri-food chain – collectively known as sanitary and phyto-sanitary (“SPS”) checks in a way which protects biosecurity and supports trade between GB and the EU.</p> <p>The instrument amends Annex 6 to Regulation (EU) 2017/625 to change the date from which transitional prior notification for products of animal origin and specific plant and plant products apply from 1 April 2021 to 31 July 2021; amends schedule 5 to the Trade in Animals and Related Products (Scotland) Regulations 2012 to change the date from which transitional SPS certification requirements for products of animal origin apply from 1 April 2021 to 31 July 2021; and amends the Plant Health (Amendment etc.) (EU Exit) Regulations 2020 to change the end date for transitional SPS certification requirements for plants and plant products from 31st March 2021 to 31 December 2021</p> <p>These changes will ensure that transitional provisions relating to the phased introduction of import border controls processes continue to be operable during and after the protracted period during which businesses and border operations continue to be adversely affected by the coronavirus pandemic.</p>

**Other information**

This notification should be read in conjunction with the original notification issued to the Scottish Parliament on 12 March when the then Rural Economy and Connectivity Committee considered the SI under its original title 'The Plant Health (Amendment etc.) (EU Exit) (Amendment) Regulations 2021<sup>2</sup>'.

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<sup>2</sup> [https://archive2021.parliament.scot/S5\\_Rural/REC-S5-21-10-8\\_Late\\_public\\_SI\\_paper.pdf](https://archive2021.parliament.scot/S5_Rural/REC-S5-21-10-8_Late_public_SI_paper.pdf)

## **Annex I – List of EU regulations being amended**

- Regulation (EU) 2017/625 (“the Official Controls Regulation”) on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, as amended by Regulation 2020/1481.