

EXPLANATORY MEMORANDUM
TO
The Northern Ireland Poultry Health Assurance Scheme Order (Northern Ireland)
2011

S.R. 2011 No. 436

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Agriculture and Rural Development and is laid before The Northern Ireland Assembly.

1.2 The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

1.3 The Statutory Rule is reliant upon the making of a different rule which is subject to a European Union legislative date requirement of 1st January 2012. Regrettably it has been decided that on this occasion the Department is unable to comply with the 21 day rule. The Regulations will come into operation on 1st January 2012.

2. Purpose

2.1 The Northern Ireland Poultry Health Assurance Scheme Order (Northern Ireland) 2011 (NIPHAS) gives effect to EU law concerning the export of poultry and hatching eggs.

3. Background

3.1 This Rule provides a statutory basis for NIPHAS. The legal base for NIPHAS currently resides within the Animals and Animal Products (Import and Export) Regulations (Northern Ireland) 2006.

3.2 As a consequence of the amalgamation and consolidation of three statutory rules, including the Animals and Animal Products (Import and Export) Regulations (Northern Ireland) 2006, it is necessary to make separate legislation for NIPHAS, comprising a Scheme Order and a Fees Order. The Scheme is already in operation and the fees are being charged. The new Fees Order will not bring about a rise in fees at this time.

3.3 The Scheme is a means of approving and monitoring poultry establishments engaging in intra-Community trade of poultry and hatching eggs. The approval and monitoring of such establishments is a requirement of Council Directive 2009/158/EC.

3.4 The Directive prohibits exports unless the commodities originate from an establishment which is a member of NIPHAS and conforms to the requirements of Directive 2009/158/EC. It also provides for powers for suspension or revocation of membership under specified circumstances.

3.5 The Order will simplify the rules for scheme members.

4. Consultation

4.1 No formal consultation has been carried out. The changes do not impose new burdens on industry as this process is simply to introduce into domestic legislation EU legislation that is already in place.

5. Parity or Replicatory Measure

5.1 Defra has made the Secretary of State the competent authority for their Poultry Health Scheme thus removing the scheme conditions from legislation. The Scheme is implemented administratively. Defra implement the charging aspect of the scheme legislatively. DAFM operates a similar Poultry Health Scheme to ensure compliance with Council Directive 2009/158/EC.

6. Equality Impact

6.1 Consideration has been given to compliance with section 75 of the NI Act 1998 and screening exercises have been carried out on the proposed legislation. The outcome was that an Equality Impact Assessment on the proposed Statutory Rule was not considered necessary.

7. Regulatory Impact and Financial Implications

7.1 A Regulatory Impact Assessment is not required on the Northern Ireland Poultry Health Assurance Scheme Order 2011 as the fees concerned are already being charged. The NIPHAS legislation does apply to small businesses but this Statutory Rule will not affect them as it is a background change to the legal base for charging fees (which are already being charged).

8. Section 24 of the Northern Ireland Act 1998

8.1 The Rule deals with animal disease control and does not have any human rights implications, nor are they incompatible with EU law. The Rule is therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. Contact

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