

EXPLANATORY MEMORANDUM TO
THE APPROVED COUNTRY LISTS (ANIMALS AND ANIMAL PRODUCTS)
(AMENDMENT) REGULATIONS 2023

2023 No. 217

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food & Rural Affairs (“Defra”) and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

- 2.1 This instrument amends several pieces of retained European Union law to correct errors in the lists of animals and animal products that Switzerland and Iceland are approved to export to Great Britain. This is necessary to ensure trade in certain animals and animal products with these countries can continue. It also removes a transit approval for Russia that had been redundant since the end of the Transition Period.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of this instrument England and Wales, and Scotland.
4.2 The territorial application of this instrument is England and Wales, and Scotland.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The specific animals and animal products that trading partners are approved to export to Great Britain are set out in a number of pieces of retained European Union law.
6.2 The instrument makes amendments to these approvals for Switzerland, Iceland and Russia in the following pieces of legislation:
- Commission Decision 2007/777/EC laying down the animal and public health conditions and model certificates for imports of certain meat products and treated stomachs, bladders and intestines for human consumption from third countries;
 - Commission Regulation (EC) No 798/2008 laying down a list of third countries, territories, zones or compartments from which poultry and poultry products may be imported into and transit through the Community and the veterinary certification requirements

- Commission Regulation (EU) No 206/2010 laying down lists of third countries, territories or parts thereof authorised for the introduction into the European Union of certain animals and fresh meat and the veterinary certification requirements.

6.3 The Trade in Animals and Animal Products (Legislative Functions) and Veterinary Surgeons (Amendment) (EU Exit) Regulations 2019 provides powers for this legislation to be amended to add, remove or amend the third country lists in this legislation, subject to an assessment by the Secretary of State of the risks to animal health and public health in the United Kingdom. The consent of the appropriate authorities – the Welsh Ministers in relation to Wales and the Scottish Ministers in relation to Scotland – is required to exercise these powers.

7. Policy background

What is being done and why?

- 7.1 This instrument makes changes to the Regulations specified above under Section 6.2 (Legislative Context).
- 7.2 The specific animals and animal products that trading partners are approved to export to Great Britain are set out in a number of lists in retained European Union legislation. Approvals that were in place at the end of the Transition Period continue to be recognised by the UK Government.
- 7.3 This instrument amends approvals to export animals and animal products to Great Britain from Switzerland and Iceland. This is necessary in order to remedy a number of errors that mean Switzerland and Iceland are no longer approved to export the animals and animal products for which they were approved at the end of the Transition Period.
- 7.4 Switzerland's and Iceland's approvals to export certain animals and animal products to Great Britain were retained in domestic legislation on 31st December 2020 through the EU (Withdrawal) Act 2018. However, in July 2022 a drafting error in The Import of Animals and Animal Products and Approved Countries (Amendment) Regulations 2022 (SI 2022/735) had the effect of removing these approvals. As a result, Switzerland has not been legally approved for exports of fresh meat and live animals of ungulates, poultry and poultry products, and meat products, and Iceland for exports of meat products to Great Britain since July 2022.
- 7.5 This instrument is necessary to re-establish a legal basis for imports of these commodities to ensure that legitimate trade from Switzerland and Iceland continues with minimal disruption.
- 7.6 The instrument also removes a transit approval for live bovine animals for Russia which has been redundant since the end of the Transition Period. The approval relates to the transit of bovine animals from the Russian territory of Kaliningrad to other regions of Russia via Lithuania. This approval was retained in domestic legislation through the EU (Withdrawal) Act 2018 but is no longer applicable.
- 7.7 Regulations 6, 7 and 9 of the Trade in Animals and Animal Products (Legislative Functions) and Veterinary Surgeons (Amendment) (EU Exit) Regulations 2019 require an assessment by the Secretary of State of the risks to animal health and public health in the United Kingdom to have been carried out prior to amending trading partner import approvals. An assessment has been carried out which has concluded

that maintaining the approvals to export animals and animal products to Great Britain from Switzerland and Iceland that were in place at the end of the Transition Period and removing a redundant transit approval for Russia for bovine animals poses no additional risks to animal health and public health in Great Britain.

Explanations

What did any law do before the changes to be made by this instrument?

- 7.8 In order to maintain existing approvals for European Union Member States and European Free Trade Association (EFTA) states to export animals and animal products to Great Britain following the end of the Transition Period, three instruments were made in 2020 which added these countries to lists of approved countries in domestic legislation. These instruments were:
- The Import of, and Trade in, Animals and Animal Products (Miscellaneous Amendments) (EU Exit) Regulations 2020 (SI 2020/1462)
 - The Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds (Amendment) (EU Exit) Regulations 2020 (SI 2020/1388)
 - The Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) (No. 2) Regulations 2020 (SI 2020/1631)
- 7.9 This meant that Switzerland's and Iceland's existing approvals were maintained following the end of the Transition Period. For a number of commodities this was achieved through the insertion of legislative footnotes to the relevant third country lists.
- 7.10 In July 2022, these footnotes were removed through The Import of Animals and Animal Products and Approved Countries (Amendment) Regulations 2022 (SI 2022/735) to allow these lists to be managed administratively. However, a drafting error in that instrument meant that replacement text, needed to ensure that the approvals for the commodities outlined in Section 7.4 continued to apply, was inadvertently omitted.
- 7.11 Separately, a redundant transit approval for bovine animals from Russia was retained in Commission Regulation (EU) No 206/2010 at the end of the Transition Period.

Why is it being changed?

- 7.12 The errors created by SI 2022/735 mean that Switzerland and Iceland currently lack the appropriate legal basis to export certain commodities to Great Britain for which they should be approved. These errors must be rectified to ensure that trade from Switzerland and Iceland can continue without disruption.
- 7.13 In addition, a redundant transit approval for Russia for the movement of bovine animals from the Russian territory of Kaliningrad to other regions of Russia via Lithuania is being removed from legislation as it has no relevance to Russian-GB trade. This approval should have been removed when the EU legislation was retained or in subsequent statutory instrument that have amended Commission Regulation (EU) No 206/2010, but the error has only recently been identified by Defra officials.

What will it now do?

- 7.14 This instrument will amend the entries for Switzerland and Iceland in the following legislation to specify the commodities for which those countries are approved:
- Commission Decision 2007/777/EC laying down the animal and public health conditions and model certificates for imports of certain meat products and treated stomachs, bladders and intestines for human consumption from third countries
 - Commission Regulation (EC) No 798/2008 laying down a list of third countries, territories, zones or compartments from which poultry and poultry products may be imported into and transit through the Community and the veterinary certification requirements
 - Commission Regulation (EU) No 206/2010 laying down lists of third countries, territories or parts thereof authorised for the introduction into the European Union of certain animals and fresh meat and the veterinary certification requirements.
- 7.15 The instrument will also remove from legislation the transit approval for Russia for the movement of bovine animals between Russia and the Russian territory of Kaliningrad through Lithuania.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 None. There are no plans for consolidation.

10. Consultation outcome

- 10.1 Defra has not undertaken a public consultation on this instrument as it does not constitute a change in policy and will maintain the status quo. Defra has formally consulted the Scottish Government, Welsh Government, Food Standards Agency and Food Standards Scotland on this instrument. They are all agreed that re-listing Switzerland and Iceland in this instrument is consistent with the policy of maintaining existing approvals to exports animals and animal products to Great Britain following the end of the Transition Period, and have given their consent.

11. Guidance

- 11.1 As the errors in legislation have not had a practical impact on trade, and as this instrument does not substantively change the process for exporting animals and animal products from Switzerland, Iceland or Russia to Great Britain, no additional guidance regarding the trade in related animals or animal products will be issued.
- 11.2 Defra officials do, however, intend to notify the Swiss and Icelandic authorities of the existing legal gap and our approach to closing it prior to the laying of this statutory instrument.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because this instrument relates to the maintenance of existing approvals.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses. As outlined in Section 12.1, there will be no significant impact on small businesses

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is through the course of normal departmental business, as no substantive changes to current procedures or standards for the export of animals and animal products from Switzerland, Iceland or Russia are being introduced.

15. Contact

- 15.1 Liam Morris at the Department for Environment, Food and Rural Affairs Telephone: 0208 026 2017 or email: liam.morris@defra.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Paul Green, Deputy Director for the UK Office for SPS Trade Assurance, at the Department for Environmental, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Benyon at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.