

Explanatory Memorandum to The Export and Movement Restrictions (Foot and Mouth Disease (Wales) Regulations 2007

This Explanatory Memorandum has been prepared by the Office of the Chief Veterinary Officer and is laid before the National Assembly for Wales.

(i) Description

These Regulations will implement in Wales the Commission Decision of 19 November 2007 amending Commission Decision 2007/554/EC concerning certain protection measures against foot and mouth disease in the United Kingdom (not yet published in the Official Journal). The Commission Decision of 19 November 2007 extends the categories of, and areas from which, products derived from animals may be exported.

(ii) Matters of special interest to the Subordinate Legislation Committee

These Regulations provide for easements to the restrictions on exports and imports of live animals and animal products from and to Wales. As this is an easement of an emergency disease control measure to assist the industry to return to normal, it requires urgent enforcement powers for implementation and, as such it is necessary for the Instrument to breach the 21 day rule. The Presiding Officer has been notified of the breach by letter.

Due to the length of the Regulations and the need to introduce them in Wales immediately, the Minister for Rural Affairs has deemed that it would not be reasonably practicable for them to be made bilingually within the timescale. However a Welsh translation of the Regulations will be available in due course.

(iii) Legislative Background

These Regulations continue to regulate the importation and dispatch of live animals and open up in Wales the export trade in certain categories of animal products which was previously restricted under an EU imposed export ban. The Regulations make it an offence to export anything which continues to be prohibited from export under the Regulations.

The powers enabling this Instrument to be made are contained in section 2(2) of the European Communities Act 1972. They have been designated by virtue of the European Communities (Designation) (No 3) Order 2005 (SI 2005/2766) to the National Assembly for Wales in respect of the common agricultural policy. By virtue of sections 59(1) and 162 of and paragraphs 28 and 30 of Schedule 11 to the Government of Wales Act 2006 functions previously conferred on the National Assembly for Wales by this designation are now exercisable by the Welsh Ministers. This Instrument is subject to the negative resolution procedure.

(iv) Purpose and intended effect of the legislation

These Regulations provide for easing of emergency disease control measures in Wales which were put in place to prevent the export of the foot and mouth disease virus to other European member States and Third Countries. The regulations reflect amendments to the Commission Decision of 19 November 2007, which provide for easements to the conditions to be applied in Wales for the exportation of animal products from susceptible species. The principal effect of the Regulations is that:

- the areas listed in the Annexes to the Decision have been amended so that parts of England, and the whole of Scotland and Wales will no longer be under restriction for movement and exports of animal products including germplasm (semen, ova and embryos);
- exports of live animals are still not permitted for the whole of GB;
- imports of live animals will be permitted;
- movements of animals and animal products between the areas listed in the Annexes will be permitted under certain conditions; and
- in order to obtain FMD free status of the UK certain conditions have to be met. Restrictions on animals and germplasm will remain until 31 December 2007.

(v) Implementation

These Regulations were made and came into force on 20 November 2007. Failure to implement the legislation with immediate effect in Wales would mean Wales would be disadvantaged in not being able to export fresh meat and would lead to inconsistency in trade across the UK. If the UK did not implement this Decision it would be in breach of a Community requirement. Parallel Regulations came into force at 6.30 pm on 19 November 2007 in England, Scotland intend to make their Regulations on 20 November 2007. Northern Ireland was not subject to the import and export restrictions.

(vi) Consultation

Given the urgency with which these new Regulations have had to be made, there has been insufficient time for any public consultation.

(vii) Regulatory Impact Assessment

The Welsh Assembly Government does not consider the SI will need a Regulatory Impact Assessment where the legislation needs to be put in place quickly to deal with a public health or other emergency.